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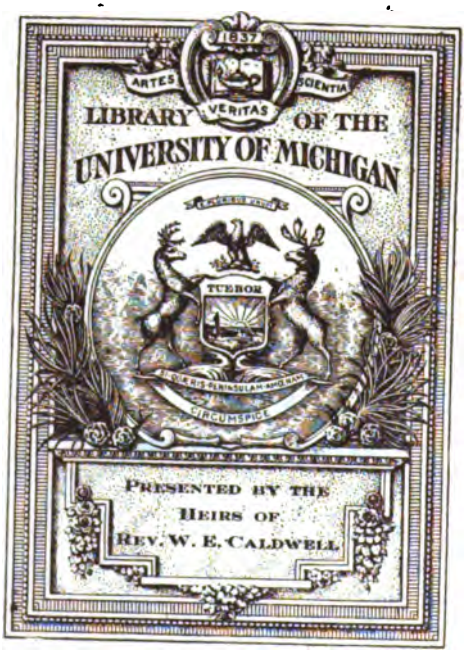

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1851

Pitt, Chatham, 1st earl of Pitt

CELEBRATED SPEECHES

OF

CHATHAM, BURKE, AND ERSKINE.

TO WHICH IS ADDED,

THE ARGUMENT OF MR. MACKINTOSH

IN THE CASE OF PELTIER.

SELECTED BY A

MEMBER OF THE PHILADELPHIA BAR.

——— tulit eloquium insolitum facundia præceps;
Utiliumque sagax rerum et divina futuri
Sortilegis non discrepuit sententia Delphis.——Hor.

NEW YORK:
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Phila.?

later L.C.J. Wylie

9-28-43

PREFACE.

In selecting the Speeches contained in the following pages, the compiler has been influenced by two considerations, the one having reference solely to their literary merit, the other to the dignity and importance of the topics of which they treat.

In a country where almost every citizen has occasion, at some period, to express his sentiments in a public assembly, the diffusion of correct models for popular and deliberative oratory is eminently desirable. Native force, unassisted by judgment and taste, like a projectile ill-directed, not only falls short of its aim, but becomes a useless and dangerous missile. No man is born an orator—no man is even fashioned into a judicious and impressive speaker without a certain amount of study and training. The efforts of an unschooled and fervid imagination, spurning and overleaping the boundaries of good sense and propriety, may arouse the passions and obtain the applause of the unreflecting; but it is to "the words of truth and soberness," sustained and elevated by a cultivated mind and chastened fancy, that men give the name and the praise of eloquence. It should ever be recollected that oratory is peculiarly an art, perfected only, according to the ancients, by the knowledge and practice of almost every other, and the mere physics of which,—"the eloquence of the body," as Quintilian phrases it,—were with them a subject of intense application. If the improved state of popular education renders that branch of study less important to a modern speaker, it, at the same time, enhances the necessity of increased attention to that which is purely intellectual. While the "fierce democracy" of Athens

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were sterner critics in accent and gesture, the American people more rigidly insist that their understandings shall be convinced, their taste consulted, and their minds enlightened.

There is doubtless some reason in the strictures which have been advanced upon the character of our legislative debates. They are, for the most part, prolix and tedious on the one hand, or tumid and extravagant on the other—in either case, they are superficial and discursive. These defects may in part be attributed to the republican principles and forms which predominate in our Constitution and laws. We have no professional legislators, and, with the exception of a single class, few practised speakers;

"———Veniet de plebe togata
Qui juris nodos, et legum ænigmata solvat."

Habits of condensed thought and expression are not acquired in a day, nor are the pursuits of active life always consistent with that intellectual training which best makes men apt speakers by first making them close thinkers. So far as this and similar evils are incident to our political system, we submit to them as more than counterbalanced by the practical equality and freedom of our institutions. But a vicious style and defective method can be inherent in no form of government, since they result less from a deficiency of power than from a depressed literary standard. It is to elevate this standard, to bring the American reader into familiar and accurate acquaintance with the best examples of English eloquence, to show him with what skill and effect his language has been wielded for the various purposes of attack and defence, of argument and invective, of satire and eulogium, and thereby to raise, refine, and purify the national taste, already highly improved, that the present collection has been undertaken and will be prosecuted.

This and a succeeding volume, (to be compiled principally from the works of Fox, Pitt, and Sheridan,) will

contain, though not precisely in a chronological series, as many of the more distinguished efforts of the leaders of the British Parliament, from the commencement of the American war to the treaty of Amiens, as their limits will admit. The collection will also include some of the popular and forensic addresses of the same period, and will be followed by a selection from the speeches of Mr. Canning, Lord Brougham, and others, by which the work will be completed to the present time. In regard to the period first alluded to, we know of none in English history more capable of affording instruction to an American citizen, whether we consider the magnitude of the topics discussed or the energy of intellect and extent of erudition applied to their consideration. The assertion of those free principles, the denial of which dismembered one ancient government and dissolved another, was nowhere louder than in the British Parliament; and the defence of personal rights, political, civil, and religious, was nowhere manlier, though elsewhere perhaps more successful, than in the British courts. It is not our business here to arraign motives; perhaps in the acrimonious contests of that day, the difference was, often, less about principles than about their application. Certain it is that we may reap benefit from a collision, in which institutions were assailed, on the one side, by genius prompted by lofty purpose and upheld by high ambition, and defended on the other by all the resources which power could enlist from learning, zeal, and patriotism. The basis of civil government, the rights of the subject, and the prerogative of the ruler, hung upon men's tongues, not as matters of fanciful and idle theory, but in direct reference to the fate of the empire and the preservation of its laws and Constitution.

Of a scarcely less important character, though of more restricted interest, were the various questions which arose during this period in relation to the affairs of India and Ireland, and the principles which characterized the financial system of Mr. Pitt. Growing out

of the first of these, we must be permitted to mention the Impeachment of Hastings as unrivalled in the peculiar solemnity of its theme, the dignity with which its forms were conducted, and the labor, talent, and eloquence which distinguished its prosecution. The arguments of the more prominent managers of that Impeachment,—"conspicuæ divina Philippica famæ,"—cannot but occupy a large space in a collection like the present, and, while the language lasts, will exhibit, in the highest degree, the compatibility of grace with strength, the union of the loftiest flights of the imagination with the noblest efforts of the reason.

Such are the principal sources whence the contents of these volumes have been drawn. The nature of the undertaking precludes novelty; but, while it offers little that is new, it contains, at the same time, nothing that is low, mean, or unworthy. It exhibits the works of genius on a conspicuous theatre, aiming at noble ends and laboring for immortality. If it cannot teach us better to appreciate the rights which we enjoy, there are few of us but may learn from it in what manner they may best be defended against the inroads of power or the intrusions of ambition.

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SPEECH OF WILLIAM PITT,

THE ELDER,

(AFTERWARDS LORD CHATHAM,)

IN THE HOUSE OF COMMONS, JANUARY 16, 1776, ON THE RIGHT TO TAX AMERICA.

MR. SPEAKER,

I CAME to town but-to day. I was a stranger to the tenor of his majesty's speech, and the proposed address, till I heard them read in this house. Unconnected and unconsulted, I have not the means of information. I am fearful of offending through mistake, and therefore beg to be indulged with a second reading of the proposed address. I commend the king's speech, and approve of the address in answer; as it decides nothing, every gentleman being left at perfect liberty to take such a part concerning America, as he might afterwards see fit. One word only I cannot approve of—an *early*, is a word that does not belong to the notice the ministry have given to parliament of the troubles in America. In a matter of such importance, the communication ought to have been immediate. I speak not with respect to parties. I stand up in this place single and independent. As to the late ministry, every capital measure they have taken, has been entirely wrong!

As to the present gentlemen, to those at least whom I have in my eye, I have no objection. I have never been made a sacrifice by any of them. Their characters are fair; and I am always glad when men of fair character engage in his majesty's service. Some of them did me the honor to ask my opinion before they would engage. These will now do me the justice to own, I advised them to do it; but, notwithstanding, to be explicit, I cannot give them my confidence. Pardon me, gentlemen, confidence is a plant of slow growth in an aged bosom. Youth is the season of credulity. By comparing

events with each other, reasoning from effects to causes methinks I plainly discover the traces of an overruling influence.

There is a clause in the act of settlement to oblige every minister to sign his name to the advice which he gives to his sovereign. Would it were observed!—I have had the honor to serve the crown, and if I could have submitted to influence, I might have still continued to serve: but I would not be responsible for others. I have no local attachments. It is indifferent to me whether a man was rocked in his cradle on this side or that side of the Tweed. I sought for merit wherever it was to be found. It is my boast, that I was the first minister who looked for it, and I found it in the mountains of the North. I called it forth, and drew it into your service, a hardy and intrepid race of men! men, who, when left by your jealousy, became a prey to the artifices of your enemies, and had gone nigh to have overturned the state in the war before the last. These men in the last war, were brought to combat on your side; they served with fidelity, as they fought with valor, and conquered for you in every part of the world. Detested be the national reflections against them! They are unjust, groundless, illiberal unmanly. When I ceased to serve his majesty as a minister, it was not the *country* of the man by which I was moved—but *the man* of that country wanted *wisdom*, and held principles incompatible with *freedom*.

It is a long time, Mr. Speaker, since I have attended in parliament. When the resolution was taken in this house to tax America, I was ill in bed. If I could have endured to have been carried in my bed, so great was the agitation of my mind for the consequences, I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it! It is now an act that has passed. I would speak with decency of every act of this house: but I must beg the indulgence of the house to speak of it with freedom.

I hope a day may be soon appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that his majesty recommends and the importance of the subject requires. A subject of greater importance than ever engaged the attention of this house! that subject only excepted, when, near a century ago, it was the question, whether you yourselves were to be bond or free. In the mean time, as I cannot depend upon my health for any future day, such is the nature of my infirmities, I will beg to say a few words at

present, leaving the justice, the equity, the policy, the expediency of the act, to another time. I will only speak to one point, a point which seems not to have been generally understood. I mean to the right. Some gentlemen seem to have considered it as a point of honor. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion, that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies, to be sovereign and supreme, in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom, equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen; equally bound by its laws, and equally participating of the constitution of this free country. The Americans are the sons, not the bastards of England. Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the peers and the crown to tax, is only necessary to close with the form of a law. The gift and grant is of the commons alone. In ancient days, the crown, the barons, and the clergy, possessed the lands. In those days, the barons and the clergy gave and granted to the crown. They gave and granted what was their own. At present, since the discovery of America, and other circumstances permitting, the commons are become the proprietors of the land. The church, God bless it, has but a pittance. The property of the lords, compared with that of the commons, is as a drop of water in the ocean; and this house represents those commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this house we give and grant, we give and grant what is our own. But in an American tax, what do we do? We your majesty's commons for Great Britain give and grant to your majesty, what? Our own property? No. We give and grant to your majesty, the property of your majesty's commons of America. It is an absurdity in terms.

The distinction between legislation and taxation is essentially necessary to liberty. The crown, the peers, are equally legislative powers with the commons. If taxation be a part of simple legislation, the crown, the peers have rights in taxation as well as yourselves; rights which they will claim, which they will exercise, whenever the principle can be supported by power.

There is an idea in some, that the colonies are virtually re-

presented in the house. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom? *Would to God that respectable representation was augmented to a greater number!* Or will you tell him that he is represented by any representative of a borough—a borough which, perhaps, its own representatives never saw. This is what is called *the rotten part of the constitution.* It cannot continue a century. If it does not drop, it must be amputated. The idea of a virtual representation of America in this house is the most contemptible idea that ever entered into the head of a man. It does not deserve a serious refutation.

The commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it. At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures, in every thing, except that of taking their money out of their pockets without their consent.

Here I would draw the line,

Quam ultra citraque nequæ consistere rectum.

* * * * * * * * * *

Gentlemen, Sir, have been charged with giving birth to sedition in America. They have spoken their sentiments with freedom against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this house imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have desisted from his project. The gentleman tells us, America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here armed at all points, with law cases and acts of parliament, with the statute book doubled down in dog's ears, to defend the cause of liberty: if I had, I myself would have cited the two cases of Chester and Durham. I would have cited them, to have shown that, even under former arbitrary reigns, parliaments were ashamed of taxing a people without their consent; and allowed them representatives. Why

did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales, Wales, that never was taxed by parliament till it was incorporated. I would not debate a particular point of law with the gentleman. I know his abilities. I have been obliged to his diligent researches. But, for the defence of liberty, upon a general principle, upon a constitutional principle, it is a ground on which I stand firm; on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented;—the India company, merchants, stockholders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not equally represented. But they are all inhabitants, and as such are they not virtually represented? Many have it in their option to be actually represented. They have connexions with those that elect, and they have influence over them. The gentleman mentioned the stockholders. I hope he does not reckon the debts of the nation as a part of the national estate. Since the accession of king William, many ministers, some of great, others of more moderate abilities, have taken the lead of government.

He then went through the list of them, bringing it down till he came to himself, giving a short sketch of the characters of each of them. None of these, he said, thought or ever dreamed of robbing the colonies of their constitutional rights. That was reserved to mark the era of the late administration: not that there were wanting some, when I had the honor to serve his majesty, to propose to me to burn my fingers with an American stamp act. With the enemy at their back, with our bayonets at their breasts, in the day of their distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous, an unjust advantage. The gentleman boasts of his bounties to America! Are not these bounties intended finally for the benefit of this kingdom? If they are not, he has misapplied the national treasures. I am no courtier of America. I stand up for this kingdom. I maintain that the parliament has a right to bind, to restrain America.

Our legislative power over the colonies is sovereign and supreme. When it ceases to be sovereign and supreme, I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together like England and her colonies without being incorporated, the one must necessarily govern. The greater must rule the less; but so rule it, as not to contradict the fundamental principles that are common to both.

If the gentleman does not understand the difference between external and internal taxes, I cannot help it; but there is a plain distinction between taxes levied for the purposes of raising a revenue, and duties imposed for the regulation of trade, for the accommodation of the subject; although, in the consequences, some revenue might incidentally arise from the latter.

The gentleman asks, when were the colonies emancipated? But I desire to know, when were they made slaves? But I dwell not upon words. When I had the honor of serving his majesty, I availed myself of the means of information, which I derived from my office. I speak therefore from knowledge. My materials were good. I was at pains to collect, to digest, to consider them; and I will be bold to affirm, that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year, three-score years ago, are at three thousand at present. Those estates sold then from fifteen to eighteen years' purchase; the same may now be sold for thirty.

You owe this to America. This is the price America pays you for her protection. And shall a miserable financier come with a boast, that he can bring a pepper-corn into the exchequer, to the loss of millions to the nation! I dare not say, how much higher these profits may be augmented. Omitting the immense increase of people, by natural population, in the northern colonies, and the emigration from every part of Europe, I am convinced the commercial system of America may be altered to advantage. You have prohibited where you ought to have encouraged: you have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent, in favor of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of parliament in consequence of treaties remain; but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong. Much may be amended for the general good of the whole.

Does the gentleman complain he has been misrepresented in the public prints? It is a common misfortune. In the Spanish affair of the last war, I was abused in all the newspapers, for having advised his majesty to violate the laws of nations with regard to Spain. The abuse was industriously circulated even in handbills. If administration did not propagate the abuse, administration never contradicted it. I will not say what advice I did give the king. My advice is in writing, signed by myself, in the possession of the crown. But I will say what

advice I did not give to the king. I did not advise him to violate any of the laws of nations.

As to the report of the gentleman's preventing in some way the trade for bullion with the Spaniards, it was spoken of so confidently that I own I am one of those who did believe it to be true.

The gentleman must not wonder he was not contradicted, when, as the minister, he asserted the right of parliament to tax America. I know not how it is, but there is a modesty in this house which does not choose to contradict a minister. Even your chair, sir, looks too often towards St. James's. I wish gentlemen would get the better of this modesty. If they do not, perhaps the collective body may begin to abate of its respect for the representative. Lord Bacon has told me, that a great question would not fail of being agitated at one time or another. I was willing to agitate that at the proper season, the German war;—my German war, they called it. Every sessions I called out, Has anybody any objection to the German war? Nobody would object to it, one gentleman only excepted, since removed to the upper house by succession to an ancient barony (meaning lord Le Despencer, formerly Sir Francis Dashwood.) He told me, "He did not like a German war." I honored the man for it, and was sorry when he was turned out of his post. A great deal has been said without doors of the power, of the strength, of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valor of your troops. I know the skill of your officers. There is not a company of foot that has served in America out of which you may not pick a man of sufficient knowledge and experience to make a governor of a colony there. But on this ground, on the stamp act, which so many here will think a crying injustice, I am one who will lift up my hands against it.

In such a cause, your success would be hazardous. America, if she fell, would fall like the strong man; she would embrace the pillars of the state, and pull down the constitution along with her. Is this your boasted peace—not to sheathe the sword in its scabbard, but to sheathe it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole house of Bourbon is united against you, while France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and withholds from your subjects in Canada their property stipulated by treaty; while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean plunderer! a gentleman (colonel Draper) whose noble and generous spirit would do honor to the proudest gran-

dee of the country? The Americans have not acted in all things with prudence and temper; they have been wronged; they have been driven to madness, by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America that she will follow the example. There are two lines in a ballad of Prior's, of a man's behavior to his wife, so applicable to you and your colonies, that I cannot help repeating them:

"Be to her faults a little blind
Be to her virtues very kind."

Upon the whole, I will beg leave to tell the house what is my opinion. It is, that the stamp act be repealed absolutely, totally, and immediately. That the reason for the repeal be assigned, because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent.

LORD CHATHAM'S SPEECH,

IN THE HOUSE OF LORDS, JANUARY 9, 1770, IN REPLY TO LORD MANSFIELD, ON THE FOLLOWING AMENDMENT TO THE ADDRESS TO THE THRONE.

"That we will, with all convenient speed, take into our most serious consideration the causes of the discontents which prevail in so many parts of your majesty's dominions, and particularly the late proceedings of the house of commons touching the incapacity of John Wilkes, Esq. expelled by that house, to be re-elected a member to serve in this present parliament; thereby refusing, by a resolution of one branch of the legislature only, to the subject his common right, and depriving the electors of Middlesex of their free choice of a representative."

My Lords,

There is one plain maxim, to which I have invariably adhered through life: that in every question, in which my liberty, or my property were concerned, I should consult and be determined by the dictates of common sense. I confess, my lords, that I am apt to distrust the refinement of learning, because I have seen the ablest and the most learned men equally liable to deceive themselves, and to mislead others. The condition of human nature would be lamentable indeed, if nothing less than the greatest learning and talents, which fall to the share of so small a number of men, were sufficient to direct our judgment and our conduct. But Providence has taken better care of our happiness, and given us, in the simplicity of common sense, a rule for our direction, by which we shall never be misled. I confess, my lords, I had no other guide in drawing up the amendment, which I submitted to your consideration; and, before I heard the opinion of the noble lord who spoke last, I did not conceive that it was even within the limits of possibility for the greatest human genius, the most subtle understanding, or the acutest wit, so strangely to misrepresent my meaning, and to give it an interpretation so entirely foreign from what I intended to express, and from that sense which the very terms of the amendment plainly and distinctly carry with them. If there be the smallest foundation for the censure thrown upon me by that noble lord; if, either expressly, or by the most distant implication, I have said or insinuated any part of what the noble lord has charged me with, discard my opinions for ever, discard the motion with contempt.

My lords, I must beg the indulgence of the house. Neither will my health permit me, nor do I pretend to be qualified to

follow that learned lord minutely through the whole of his argument. No man is better acquainted with his abilities and learning, nor has a greater respect for them, than I have. I have had the pleasure of sitting with him in the other house and always listened to him with attention. I have not now lost a word of what he said, nor did I ever. Upon the present question I meet him without fear. The evidence which truth carries with it, is superior to all argument; it neither wants the support, nor dreads the opposition of the greatest abilities. If there be a single word in the amendment to justify the interpretation which the noble lord has been pleased to give it, I am ready to renounce the whole. Let it be read, my lords; let it speak for itself. In what instance does it interfere with the privileges of the house of commons? In what respect does it question their jurisdiction, or suppose an authority in this house to arraign the justice of their sentence? I am sure that every lord who hears me will bear me witness, that I said not one word touching the merits of the Middlesex election. So far from conveying any opinion upon that matter, in the amendment, I did not even in discourse deliver my own sentiments upon it. I did not say that the house of commons had done either right or wrong; but, when his majesty was pleased to recommend it to us to cultivate unanimity amongst ourselves, I thought it the duty of this house, as the great hereditary council of the crown, to state to his majesty the distracted condition of his dominions, together with the events which had destroyed unanimity among his subjects. But, my lords, I stated events merely as facts, without the smallest addition either of censure or of opinion. They are facts, my lords, which I am not only convinced are true, but which I know are indisputably true. For example, my lords: will any man deny that discontents prevail in many parts of his majesty's dominions? or that those discontents arise from the proceedings of the house of commons touching the declared incapacity of Mr. Wilkes? 'T is impossible. No man can deny a truth so notorious. Or will any man deny that those proceedings refused, by a resolution of one branch of the legislature only, to the subject his common right? Is it not indisputably true, my lords, that Mr. Wilkes had a common right, and that he lost it no other way but by a resolution of the house of commons? My lords, I have been tender of misrepresenting the house of commons. I have consulted their journals, and have taken the very words of their own resolution. Do they not tell us in so many words, that Mr. Wilkes, having been expelled, was thereby rendered

incapable of serving in that parliament? and is it not their resolution alone, which refuses to the subject his common right? The amendment says further, that the electors of Middlesex are deprived of their free choice of a representative. Is this a false fact, my lords? Or have I given an unfair representation of it? Will any man presume to affirm that colonel Luttrell is the free choice of the electors of Middlesex? We all know the contrary. We all know that Mr. Wilkes (whom I mention without either praise or censure) was the favorite of the county, and chosen by a very great and acknowledged majority, to represent them in parliament. If the noble lord dislikes the manner in which these facts are stated, I shall think myself happy in being advised by him how to alter it. I am very little anxious about terms, provided the substance be preserved; and these are facts, my lords, which I am sure will always retain their weight and importance, in whatever form of language they are described.

Now, my lords, since I have been forced to enter into the explanation of an amendment, in which nothing less than the genius of penetration could have discovered an obscurity, and having, as I hope, redeemed myself in the opinion of the house, having redeemed my motion from the severe representation given of it by the noble lord, I must a little longer entreat your lordships' indulgence. The constitution of this country has been openly invaded in fact; and I have heard, with horror and astonishment that very invasion defended upon principle. What is this mysterious power, undefined by law, unknown to the subject, which we must not approach without awe, nor speak of without reverence, which no man may question, and to which all men must submit? My lords, I thought the slavish doctrine of passive obedience had long since been exploded; and, when our kings were obliged to confess that their title to the crown, and the rule of their government, had no other foundation than the known laws of the land, I never expected to hear a divine right, or a divine infallibility, attributed to any other branch of the legislature. My lords, I beg to be understood. No man respects the house of commons more than I do, or would contend more strenuously than I would, to preserve to them their just and legal authority. Within the bounds prescribed by the constitution, that authority is necessary to the well-being of the people: beyond that line every exertion of power is arbitrary, is illegal; it threatens tyranny to the people, and destruction to the state. Power without right is the most odious and detestable object that can be offered to the human imagination. 'It is not only pernicious to those who are sub

ject to it, but tends to its own destruction. It is what my noble friend has truly described it; *Res detestabilis et caduca.* My lords, I acknowledge the just power, and reverence the constitution of the house of commons. It is for their own sakes that I would prevent their assuming a power which the constitution has denied them, lest, by grasping at an authority they have no right to, they should forfeit that which they legally possess. My lords, I affirm that they have betrayed their constituents, and violated the constitution. Under pretence of declaring the law, they have *made* a law, and united in the same persons the office of legislator and of judge.

I shall endeavor to adhere strictly to the noble lord's doctrine, which it is, indeed, impossible to mistake, so far as my memory will permit me to preserve his expressions. He seems fond of the word jurisdiction; and I confess, with the force and effect which he has given it, it is a word of copious meaning and wonderful extent. If his lordship's doctrine be well founded, we must renounce all those political maxims by which our understandings have hitherto been directed, and even the first elements of learning taught us in our schools when we were schoolboys. My lords, we knew that jurisdiction was nothing more than *Jus dicere;* we knew that *Legem facere* and *Legem dicere* were powers clearly distinguished from each other in the nature of things, and wisely separated by the wisdom of the English constitution: but now, it seems, we must adopt a new system of thinking. The house of commons, we are told, have a supreme jurisdiction; and there is no appeal from their sentence; and that wherever they are competent judges, their decision must be received and submitted to, as, *ipso facto,* the law of the land. My lords, I am a plain man, and have been brought up in a religious reverence for the original simplicity of the laws of England. By what sophistry they have been perverted, by what artifices they have been involved in obscurity, is not for me to explain; the principles, however, of the English laws, are still sufficiently clear: they are founded in reason, and are the masterpiece of the human understanding; but it is in the text that I would look for a direction to my judgment, not in the commentaries of modern professors. The noble lord assures us, that he knows not in what code the law of parliament is to be found; that the house of commons, when they act as judges, have no law to direct them but their own wisdom; that their decision is law; and if they determine wrong, the subject has no appeal but to Heaven. What then, my lords, are all the generous efforts of our ancestors, are all those glorious contentions, by which they meant to secure to

themselves, and to transmit, to their posterity, a known law, a certain rule of living, reduced to this conclusion, that instead of the arbitrary power of a king, we must submit to the arbitrary power of a house of commons? If this be true, what benefit do we derive from the exchange? Tyranny, my lords, is detestable in every shape; but in none so formidable as when it is assumed and exercised by a number of tyrants. But, my lords, this is not the fact; this is not the constitution. We have a law of parliament. We have a code in which every honest man may find it. We have Magna Charta, we have the Statute Book, and the Bill of Rights.

If a case should arise unknown to these great authorities, we have still that plain English reason left, which is the foundation of all our English jurisprudence. That reason tells us, that every judicial court, and every political society, must be vested with those powers and privileges which are necessary for performing the office to which they are appointed. It tells us also, that no court of justice can have a power inconsistent with, or paramount to, the known laws of the land; that the people, when they choose their representatives, never mean to convey to them a power of invading the rights, or trampling upon the liberties of those whom they represent. What security would they have for their rights, if once they admitted, that a court of judicature might determine every question that came before it, not by any known, positive law, but by the vague, indeterminate, arbitrary rule, of what the noble lord is pleased to call *the wisdom of the court?* With respect to the decision of the courts of justice, I am far from denying them their due weight and authority; yet, placing them in the most respectable view, I still consider them, not as law, but as an evidence of the law; and before they can arrive even at that degree of authority, it must appear, that they are founded in, and confirmed by, reason; that they are supported by precedents taken from good and moderate times; that they do not contradict any positive law; that they are submitted to without reluctance, by the people; that they are unquestioned by the legislature (which is equivalent to a tacit confirmation) and what, in my judgment, is by far the most important, that they do not violate the spirit of the constitution. My lords, this is not a vague or loose expression. We all know what the constitution is. We all know, that the first principle of it is, that the subject shall not be governed by the *arbitrium* of any one man, or body of men (less than the whole legislature), but by certain laws, to which he has virtually given his consent, which are open to him to examine, and not beyond his ability to understand.—Now, my lords, I affirm, and am ready to maintain, that the

late decision of the house of commons upon the Middlesex election, is destitute of every one of those properties and conditions which I hold to be essential to the legality of such a decision. It is not founded in reason; for it carries with it a contradiction, that the representative should perform the office of the constituent body. It is not supported by a single precedent; for the cause of Sir R. Walpole is but a half precedent, and even that half is imperfect. Incapacity was indeed declared; but his crimes are stated as the ground of the resolution, and his opponent was declared to be not duly elected, even after his incapacity was established. It contradicts Magna Charta and the Bill of Rights, by which it is provided, that no subject shall be deprived of his freehold, unless by the judgment of his peers, or the law of the land; and that elections of members to serve in parliament shall be free; and so far is this decision from being submitted to by the people, that they have taken the strongest measures, and adopted the most positive language to express their discontent. Whether it will be questioned by the legislature, will depend upon your lordships' resolution; but that it violates the spirit of the constitution, will, I think, be disputed by no man who has heard this day's debate, and who wishes well to the freedom of his country: yet, if we are to believe the noble lord, this great grievance, this manifest violation of the first principles of the constitution, will not admit of a remedy; is not even capable of redress, unless we appeal at once to heaven. My lords, I have better hopes of the constitution, and a firmer confidence in the wisdom and constitutional authority of this house. It is *your* ancestors, my lords, it is to the English barons, that we are indebted for the laws and constitution we possess. Their virtues were rude and uncultivated, but they were great and sincere. Their understandings were as little polished as their manners, but they had hearts to distinguish right from wrong; they had heads to distinguish truth from falsehood; they understood the rights of humanity, and they had spirit to maintain them.

My lords, I think that history has not done justice to their conduct, when they obtained from their sovereign, that great acknowledgment of national rights contained in Magna Charta: they did not confine it to themselves alone, but delivered it as a common blessing to the whole people. They did not say, these are the rights of the great barons, or these are the rights of the great prelates:—No, my lords; they said, in the simple Latin of the times, *nullus liber homo*, and provided as carefully for the meanest subject as for the greatest. These are uncouth words, and sound but poorly in the ears of scholars; neither are they addressed to the criticism of scholars, but to the hearts

of free men. These three words, *nullus liber homo*, have a meaning which interests us all; they deserve to be remembered —they deserve to be inculcated in our minds—they are worth all the classics. Let us not, then, degenerate from the glorious example of our ancestors. Those iron barons (for so I may call them when compared with the silken barons of modern days) were the guardians of the people; yet *their* virtues, my lords, were never engaged in a question of such importance as the present. A breach has been made in the constitution—the battlements are dismantled—the citadel is open to the first invader—the walls totter—the constitution is not tenable. What remains then, but for us to stand foremost in the breach, to repair it, or perish in it?

Great pains have been taken to alarm us with the consequences of a difference between the two houses of parliament—that the house of commons will resent our presuming to take notice of their proceedings; that they will resent our daring to advise the crown, and never forgive us for attempting to save the state. My lords, I am sensible of the importance and difficulty of this great crisis: at a moment, such as this, we are called upon to do our duty, without dreading the resentment of any man. But if apprehensions of this kind are to affect us, let us consider which we ought to respect most, the representative, or the collective body of the people. My lords, five hundred gentlemen are not ten millions; and if we *must* have a contention, let us take care to have the English nation on our side. If this question be given up, the freeholders of England are reduced to a condition baser than the peasantry of Poland. If they desert their own cause, they deserve to be slaves! My lords, this is not merely the cold opinion of my understanding, but the glowing expression of what I feel. It is my heart that speaks. I know I speak warmly, my lords; but this warmth shall neither betray my argument nor my temper. The kingdom is in a flame. As mediators between the king and people, it is our duty to represent to him the true condition and temper of his subjects. It is a duty which no particular respects should hinder us from performing; and whenever his majesty shall demand our advice, it will then be our duty to inquire more minutely into the causes of the present discontents. Whenever that inquiry shall come on, I pledge myself to the house to prove, that since the first institution of the house of commons, not a single precedent can be produced to justify their late proceedings. My noble and learned friend (the lord chancellor) has pledged himself to the house, that he will support that assertion.

My lords, the character and circumstances of Mr. Wilkes

have been very improperly introduced into this question, not only here, but in that court of judicature where his cause was tried. I mean the house of commons. With one party he was a patriot of the first magnitude; with the other the vilest incendiary. For my own part, I consider him merely and indifferently as an English subject, possessed of certain rights which the laws have given him, and which the laws alone can take from him. I am neither moved by his private vices, nor by his public merits. In *his* person, though he were the *worst* of men, I contend for the safety and security of the best; and, God forbid, my lords, that there should be a power in this country of measuring the civil rights of the subject by his moral character, or by any other rule but the fixed laws of the land: I believe, my lords, *I* shall not be suspected of any personal partiality to this unhappy man. I am not very conversant in pamphlets or newspapers; but, from what I have heard, and from the little I have read, I may venture to affirm, that I have had my share in the compliments which have come from that quarter; and, as for motives of ambition (for I must take to myself a part of the noble duke's insinuation) I believe, my lords, there have been times in which I have had the honor of standing in such favor in the closet, that there must have been something extravagantly unreasonable in my wishes if they might not *all* have been gratified. After neglecting those opportunities, I am now suspected of coming forward in the decline of life, in the anxious pursuit of wealth and power, which it is impossible for me to enjoy. Be it so. There is one ambition at least which I ever will acknowledge, which I will not renounce but with my life. It is the ambition of delivering to my posterity those rights of freedom which I have received from my ancestors. I am not now pleading the cause of an individual, but of every freeholder in England. In what manner this house may constitutionally interpose in their defence, and what kind of redress this case will require and admit of, is not at present the subject of our consideration. The amendment, if agreed to, will naturally lead us to such an inquiry. That inquiry may, perhaps, point out the necessity of an act of the legislature, or it may lead us, perhaps, to desire a conference with the other house; which one noble lord affirms is the only parliamentary way of proceeding; and which another noble lord assures us the house of commons would either not come to, or would break off with indignation. Leaving their lordships to reconcile that matter between themselves, I shall only say, that before we have inquired, we cannot be provided with materials: consequently we are not at present prepared for a conference.

It is not impossible, my lords, that the inquiry I speak of may lead us to advise his majesty to dissolve the present parliament; nor have I any doubt of our right to give that advice, if we should think it necessary. His majesty will then determine whether he will yield to the united petitions of the people of England, or maintain the house of commons in the exercise of a legislative power, which heretofore abolished the house of lords, and overturned the monarchy. I willingly acquit the present house of commons of having actually formed so detestable a design; but they cannot themselves foresee to what excesses they may be carried hereafter; and for my own part, I should be sorry to trust to their future moderation. Unlimited power is apt to corrupt the minds of those who possess it; and thus I know, my lords, that, where law ends, tyranny begins!

LORD CHATHAM'S SPEECH,

IN THE HOUSE OF LORDS, JANUARY 20, 1775, ON A MOTION FOR AN ADDRESS TO HIS MAJESTY, TO GIVE IMMEDIATE ORDERS FOR REMOVING HIS TROOPS FROM BOSTON.

My Lords,

After more than six weeks' possession of the papers now before you, on a subject so momentous, at a time when the fate of this nation hangs on every hour; the ministry have at length condescended to submit to the consideration of this house intelligence from America, with which your lordships and the public have been long and fully acquainted.

The measures of last year, my lords, which have produced the present alarming state of America, were founded upon misrepresentation; they were violent, precipitate, and vindictive. The nation was told, that it was only a faction in Boston, which opposed all lawful government; that an unwarrantable injury had been done to private property, for which the justice of parliament was called upon, to order reparation;—that the least appearance of firmness would awe the Americans into submission, and upon only passing the Rubicon we should be, *sine clade victor.*

That the people might choose their representatives under the impression of those misrepresentations, the parliament was precipitately dissolved. Thus the nation was to be rendered instrumental in executing the vengeance of administration on that injured, unhappy, traduced people.

But now, my lords, we find, that instead of suppressing the opposition of the faction at Boston, these measures have spread it over the whole continent. They have united that whole people, by the most indissoluble of all bands—intolerable wrongs. The just retribution, is an indiscrimate, unmerciful proscription of the innocent with the guilty unheard and untried. The bloodless victory, is an impotent general with his dishonored army, trusting solely to the pickaxe and the spade, for security against the just indignation of an injured and insulted people.

My lords, I am happy that a relaxation of my infirmities permits me to seize this earliest opportunity of offering my poor advice to save this unhappy country, at this moment tottering to its ruin But, as I have not the honor of access to his majesty, I will endeavor to transmit to him, through the constitutional channel of this house, my ideas on American business, to rescue him from the misadvice of his present

ministers. I congratulate your lordships that the business is at last entered upon, by the noble lord's laying the papers before you. As I suppose your lordships are too well apprized of their contents, I hope I am not premature in submitting to you my present motion.

I wish, my lords, not to lose a day in this urgent, pressing crisis. An hour now lost in allaying ferments in America, may produce years of calamity. For my own part, I will not desert, for a moment, the conduct of this weighty business from the first to the last. Unless nailed to my bed by the extremity of sickness, I will give it unremitted attention. I will knock at the door of this sleeping and confounded ministry, and will rouse them to a sense of their important danger.

When I state the importance of the colonies to this country, and the magnitude of danger hanging over this country, from the present plan of misadministration practised against them, I desire not to be understood to argue for a reciprocity of indulgence between England and America. I contend not for indulgence, but justice, to America; and I shall ever contend, that the Americans justly owe obedience to us in a limited degree—they owe obedience to our ordinances of trade and navigation; but let the line be skilfully drawn between the objects of those ordinances, and their private internal property. Let the sacredness of their property remain inviolate. Let it be taxable only by their own consent, given in their provincial assemblies; else it will cease to be property. As to the metaphysical refinements, attempting to show that the Americans are equally free from obedience and commercial restraints, as from taxation for revenue, as being unrepresented here, I pronounce them futile, frivolous, and groundless.

When I urge this measure of recalling the troops from Boston, I urge it on this pressing principle, that it is necessarily preparatory to the restoration of your peace, and the establishment of your prosperity. It will then appear that you are disposed to treat amicably and equitably; and to consider, revise, and repeal, if it should be found necessary, as I affirm it will, those violent acts and declarations which have disseminated confusion throughout your empire.

Resistance to your acts was necessary as it was just; and your vain declarations of the omnipotence of parliament, and your imperious doctrines of the necessity of submission, will be found equally impotent to convince or to enslave your fellow-subjects in America, who feel that tyranny, whether ambitioned by an individual part of the legislature, or the bodies who compose it, is equally intolerable to British subjects.

The means of enforcing this thraldom are found to be as

ridiculous and weak in practice, as they are unjust in principle Indeed I cannot but feel the most anxious sensibility for the situation of general Gage, and the troops under his command thinking him, as I do, a man of humanity and understanding; and entertaining, as I ever will, the highest respect, the warmest love for the British troops. Their situation is truly unworthy; penned up—pining in inglorious inactivity. They are an army of impotence. You may call them an army of safety and of guard; but they are in truth an army of impotence and contempt; and, to make the folly equal to the disgrace, they are an army of irritation and vexation.

But I find a report creeping abroad, that ministers censure general Gage's inactivity. Let them censure him—it becomes them—it becomes their justice and their honor. I mean not to censure his inactivity. It is a prudent and necessary inaction: but it is a miserable condition, where disgrace is prudence, and where it is necessary to be contemptible. This tameness, however contemptible, cannot be censured; for the first drop of blood shed in civil and unnatural war might be *immedicabile vulnus.*

I therefore urge and conjure your lordships, immediately to adopt this conciliating measure. I will pledge myself for its immediately producing conciliatory effects, by its being thus well-timed: but if you delay till your vain hope shall be accomplished, of triumphantly dictating reconciliation, you delay for ever. But, admitting that this hope, which in truth is desperate, should be accomplished, what do you gain by the imposition of your victorious amity?—you will be untrusted and unthanked. Adopt, then, the grace, while you have the opportunity of reconcilement; or at least prepare the way. Allay the ferment prevailing in America, by removing the obnoxious hostile cause—obnoxious and unserviceable; for their merit can be only inaction: "*Non dimicare et vincere,*"—their victory can never be by exertions. Their force would be most disproportionately exerted against a brave, generous, and united people, with arms in their hands, and courage in their hearts:—three millions of people, the genuine descendants of a valiant and pious ancestry, driven to those deserts by the narrow maxims of a superstitious tyranny.—And is the spirit of persecution never to be appeased? Are the brave sons of those brave forefathers to inherit their sufferings, as they have inherited their virtues? Are they to sustain the infliction of the most oppressive and unexampled severity, beyond the accounts of history, or description of poetry: "*Rhadamanthus habet durissima regna, castigatque* AUDITQUE." So says the wisest poet, and perhaps the wisest statesman and politician.—But our

ministers say, *the Americans must not be heard.* They have been condemned *unheard.*—The indiscriminate hand of vengeance has lumped together innocent and guilty; with all the formalities of hostility, has blocked up the town, and reduced to beggary and famine thirty thousand inhabitants.

But his majesty is advised, that the union in America cannot last. Ministers have more eyes than I, and should have more ears; but with all the information I have been able to procure, I can pronounce it—a union, solid, permanent, and effectual. Ministers may satisfy themselves, and delude the public, with the report of what they call commercial bodies in America. They are *not* commercial; they are your packers and factors; they live upon nothing—for I call commission nothing. I mean the ministerial authority for this American intelligence; the runners for government, who are paid for their intelligence. But these are not the men, nor this the influence, to be considered in America, when we estimate the firmness of their union. Even to extend the question, and to take in the really mercantile circle, will be totally inadequate to the consideration. Trade indeed increases the wealth and glory of a country; but its real strength and stamina are to be looked for among the cultivators of the land. In their simplicity of life is found the simpleness of virtue—the integrity and courage of freedom. These true genuine sons of the earth are invincible: and they surround and hem in the mercantile bodies; even if these bodies, which supposition I totally disclaim, could be supposed disaffected to the cause of liberty. Of this general spirit existing in the British nation; (for so I wish to distinguish the real and genuine Americans from the pseudo-traders I have described)—of this spirit of independence, animating the *nation* of America, I have the most authentic information. It is not new among them; it is, and has ever been, their established principle, their confirmed persuasion: it is their nature, and their doctrine.

I remember some years ago, when the repeal of the stamp act was in agitation, conversing in a friendly confidence with a person of undoubted respect and authenticity, on that subject; and he assured me with a certainty which his judgment and opportunity gave him, that these were the prevalent and steady principles of America.—That you might destroy their towns and cut them off from the superfluities, perhaps the conveniences of life; but that they were prepared to despise your power, and would not lament their loss, whilst they have—what, my lords? their *woods* and their *liberty.* The name of my authority, if I am called upon, will authenticate the opinion irrefragably.

If illegal violences have been, as it is said, committed in America; prepare the way, open the door of possibility, for acknowledgment and satisfaction: but proceed not to such coercion, such proscription; cease your indiscriminate inflictions; amerce not thirty thousand; oppress not three millions, for the fault of forty or fifty individuals. Such severity of injustice must for ever render incurable the wounds you have already given your colonies; you irritate them to unappeasable rancor. What though you march from town to town, and from province to province; though you should be able to enforce a temporary and local submission, which I only suppose, not admit—how shall you be able to secure the obedience of the country you leave behind you in your progress, to grasp the dominion of eighteen hundred miles of continent, populous in numbers, possessing valor, liberty, and resistance?

This resistance to your arbitrary system of taxation might have been foreseen: it was obvious from the nature of things, and of mankind; and above all, from the whiggish spirit flourishing in that country. The spirit which now resists your taxation in America, is the same which formerly opposed loans, benevolences, and ship-money in England: the same spirit which called all England *on its legs*, and by the bill of rights vindicated the English constitution: the same spirit which established the great, fundamental, essential maxim of your liberties, *that no subject of England shall be taxed but by his own consent.*

This glorious spirit of whiggism animates three millions in America; who prefer poverty with liberty, to gilded chains and sordid affluence; and who will die in defence of their rights as men, as freemen. What shall oppose this spirit, aided by the congenial flame glowing in the breast of every whig in England, to the amount, I hope, of double the American numbers? Ireland they have to a man. In that country, joined as it is with the cause of colonies, and placed at their head, the distinction I contend for is and must be observed. This country superintends and controls their trade and navigation; but they *tax themselves.* And this distinction between external and internal control is sacred and insurmountable; it is involved in the abstract nature of things. Property is private, individual, absolute. Trade is an extended and complicated consideration: it reaches as far as ships can sail, or winds can blow. it is a great and various machine. To regulate the numberless movements of its several parts, and combine them into effect, for the good of the whole, requires the superintending wisdom and energy of the supreme power in the empire.

But this supreme power has no effect towards internal taxation; for it does not exist in that relation; there is no such thing, no such idea in this constitution, as a supreme power operating upon property. Let this distinction then remain for ever ascertained; taxation is theirs, commercial regulation is ours. As an American, I would recognize to England her supreme right of regulating commerce and navigation: as an Englishman by birth and principle, I recognize to the Americans their supreme, unalienable right in their property; a right which they are justified in the defence of to the last extremity. To maintain this principle is the common cause of the whigs on the other side of the Atlantic, and on this. "'T is liberty to liberty engaged," that they will defend themselves, their families, and their country. In this great cause they are immovably allied: it is the alliance of God and nature—immutable, eternal—fixed as the firmament of heaven.

To such united force, what force shall be opposed?—What, my lords!—A few regiments in America, and seventeen or eighteen thousand men at home! The idea is too ridiculous to take up a moment of your lordships' time. Nor can such a national and principled union be resisted by the tricks of office, or ministerial manœuvre. Laying of papers on your table, or counting numbers on a division, will not avert or postpone the hour of danger. It must arrive, my lords, unless these fatal acts are done away; it must arrive in all its horrors, and then these boastful ministers, spite of all their confidence, and all their manœuvres, shall be forced to hide their heads. They shall be forced to a disgraceful abandonment of their present measures and principles, which they avow, but cannot defend; measures which they presume to attempt, but cannot hope to effectuate. They cannot, my lords, they cannot stir a step; they have not a move left; they are *check-mated.*

But it is not repealing this act of parliament, it is not repealing a piece of parchment, that can restore America to our bosom. You must repeal her fears and her resentments; and you may then hope for her love and gratitude. But now, insulted with an armed force posted at Boston, irritated with a hostile array before her eyes, her concessions, if you *could* force them, would be suspicious and insecure; they will be *irato animo;* they will not be the sound honorable passions of freemen. they will be the dictates of fear, and extortions of force. But it is more than evident, that you cannot force them, united as they are, to your unworthy terms of submission—it is impossible. And when I hear general Gage censured for inactivity, I must retort with indignation on those whose intemperate

measures and improvident councils have betrayed him into his present situation. His situation reminds me, my lords, of the answer of a French general in the civil wars of France—Monsieur *Condé* opposed to Monsieur *Turenne*. He was asked, how it happened that he did not take his adversary prisoner, as he was often very near him: "J'ai peur," replied *Condé*, very honestly, "J'ai peur qu'il ne me prenne;"—*I'm afraid he'll take me.*

When your lordships look at the papers transmitted us from America; when you consider their decency, firmness, and wisdom, you cannot but respect their cause and wish to make it your own. For myself, I must declare and avow, that in all my reading and observation—and it has been my favorite study—I have read Thucydides, and have studied and admired the master states of the world—that for solidity of reasoning, force of sagacity, and wisdom of conclusion, under such a complication of difficult circumstances, no nation, or body of men, can stand in preference to the general congress at Philadelphia. I trust it is obvious to your lordships, that all attempts to impose servitude upon such men, to establish despotism over such a mighty continental nation, must be vain, must be fatal. We shall be forced ultimately to retract; let us retract while we can, not when we must. I say we must necessarily undo these violent oppressive acts; they must be repealed—you will repeal them; I pledge myself for it, that you will in the end repeal them; I stake my reputation on it—I will consent to be taken for an idiot, if they are not finally repealed. Avoid, then, this humiliating, disgraceful necessity. With a dignity becoming your exalted situation, make the first advances to concord, to peace, and happiness; for that is your true dignity, to act with prudence and justice. That *you* should first concede, is obvious, from sound and rational policy. Concession comes with better grace and more salutary effect from superior power. It reconciles superiority of power with the feelings of men, and establishes solid confidence on the foundations of affection and gratitude.

So thought a wise poet and a wise man in political sagacity; the friend of Mecænas, and the eulogist of Augustus. To him, the adopted son and successor of the first Cæsar, to him, the master of the world, he wisely urged this conduct of prudence and dignity; "*Tuque prior, tu parce; projice tela manu.*"

Every motive, therefore, of justice and of policy, of dignity and of prudence, urges you to allay the ferment in America, by a removal of your troops from Boston, by a repeal of your acts of parliament, and by demonstration of amicable disposi-

tions towards your colonies. On the other hand, every danger and every hazard impend, to deter you from perseverance in your present ruinous measure. Foreign war hanging over your heads by a slight and brittle thread. France and Spain watching your conduct, and waiting for the maturity of your errors; with a vigilant eye to America, and the temper of your colonies, more than to their own concerns, be they what they may.

To conclude, my lords, if the ministers thus persevere in misadvising and misleading the king, I will not say, that they can alienate the affections of his subjects from his crown; but I will affirm, *that they will make the crown not worth his wearing.* I will not say that the king is betrayed; but I will pronounce *that the kingdom is undone.*

LORD CHATHAM'S SPEECH,

IN THE HOUSE OF LORDS, AT THE OPENING OF PARLIAMENT, NOVEMBER 18, 1777.

I RISE, my lords, to declare my sentiments on this most solemn and serious subject. It has imposed a load upon my mind, which, I fear, nothing can remove; but which impels me to endeavor its alleviation, by a free and unreserved communication of my sentiments.

In the first part of the address, I have the honor of heartily concurring with the noble earl who moved it. No man feels sincerer joy than I do; none can offer more genuine congratulation on every accession of strength to the Protestant succession. I therefore join in every congratulation on the birth of another princess, and the happy recovery of her majesty. But I must stop here. My courtly complaisance will carry me no further. I will not join in congratulation on misfortune and disgrace. I cannot concur in a blind and servile address, which approves, and endeavors to sanctify the monstrous measures which have heaped disgrace and misfortune upon us. This, my lords, is a perilous and tremendous moment! It is not a time for adulation. The smoothness of flattery cannot now avail; cannot save us in this rugged and awful crisis. It is now necessary to instruct the throne in the language of truth. We must dispel the delusion and the darkness which envelop it; and display, in its full danger and true colors, the ruin that is brought to our doors.

This, my lords, is our duty. It is the proper function of this noble assembly, sitting, as we do, upon our honors in this house, the hereditary council of the crown. *Who* is the minister—*where* is the minister, that has dared to suggest to the throne the contrary, unconstitutional language this day delivered from it?——The accustomed language from the throne has been application to parliament for advice, and a reliance on its constitutional advice and assistance. As it is the right of parliament to give, so it is the duty of the crown to ask it. But on this day, and in this extreme momentous exigency, no reliance is reposed on our constitutional counsels! no advice is asked from the sober and enlightened care of parliament! but the crown, from itself, and by itself, declares an unalterable determination to pursue measures—and what measures, my lords?—The measures that have produced the imminent perils

that threaten us; the measures that have brought ruin to our doors.

Can the minister of the day now presume to expect a continuance of support, in this ruinous infatuation? Can parliament be so dead to its dignity and its duty, as to be thus deluded into the loss of the one and the violation of the other? ——To give an unlimited credit and support for the steady perseverance in measures not proposed for our parliamentary advice, but dictated and forced upon us—in measures, I say, my lords, which have reduced this late flourishing empire to ruin and contempt!—"But yesterday, and England might have stood against the world: now none so poor to do her reverence." I use the words of a poet; but, though it be poetry, it is no fiction. It is a shameful truth, that not only the power and strength of this country are wasting away and expiring; but her well-earned glories, her true honor, and substantial dignity are sacrificed. France, my lords, has insulted you; she has encouraged and sustained America; and whether America be wrong or right, the dignity of this country ought to spurn at the officious insult of French interference. The ministers and ambassadors of those who are called rebels and enemies, are in Paris; in Paris they transact the reciprocal interests of America and France. Can there be a more mortifying insult? Can even our ministers sustain a more humiliating disgrace? Do they dare to resent it? Do they presume even to hint a vindication of their honor, and the dignity of the state, by requiring the dismission of the plenipotentiaries of America? Such is the degradation to which they have reduced the glories of England! The people whom they affect to call contemptible rebels, but whose growing power has at last obtained the name of enemies; the people with whom they have engaged this country in war, and against whom they now command our implicit support in every measure of desperate hostility: this people, despised as rebels, or acknowledged as enemies, are abetted against you, supplied with every military store, their interests consulted, and their ambassadors entertained, by your inveterate enemy! and our ministers dare not interpose with dignity or effect. Is this the honor of a great kingdom? Is this the indignant spirit of England, who, "but yesterday," gave law to the house of Bourbon? My lords, the dignity of nations demands a decisive conduct in a situation like this. Even when the greatest prince that perhaps this country ever saw, filled our throne, the requisition of a Spanish general on a similar subject, was attended to, and complied with. For, on the spirited remonstrance of the Duke of Alva, Elizabeth found herself obliged to deny the Flemish exiles all counte-

nance, support, or even entrance into her dominions; and the Count le Marque, with his few desperate fellowers, were expelled the kingdom. Happening to arrive at the Brille, and finding it weak in defence, they made themselves masters of the place: and this was the foundation of the United Provinces.

My lords, this ruinous and ignominious situation, where we cannot act with success, nor suffer with honor, calls upon us to remonstrate in the strongest and loudest language of truth, to rescue the ear of majesty from the delusions which surround it. The desperate state of our arms abroad is in part known: no man thinks more highly of them than I do. I love and honor the English troops. I know their virtues and their valor. I know they can achieve anything except impossibilities; and I know that the conquest of English America *is an impossibility*. You cannot, I venture to say it, *you cannot* conquer America. Your armies last war effected everything that could be effected; and what was it? It cost a numerous army, under the command of a most able general, now a noble lord in this house, a long and laborious campaign, to expel five thousand Frenchmen from French America. My lords, *you cannot conquer America*. What is your present situation there? We do not know the worst; but we know, that in three campaigns we have done nothing and suffered much. Besides the sufferings, perhaps *total loss*, of the northern force; the best appointed army that ever took the field, commanded by Sir William Howe, has retired from the American lines. *He was obliged* to relinquish his attempt, and, with great delay and danger, to adopt a new and distant plan of operations. We shall soon know, and in any event have reason to lament, what may have happened since. As to conquest, therefore, my lords, I repeat, it is impossible. You may swell every expense, and every effort, still more extravagantly; pile and accumulate every assistance you can buy or borrow; traffic and barter with every little pitiful German prince, that sells and sends his subjects to the shambles of a foreign prince; your efforts are for ever vain and impotent: doubly so from this mercenary aid on which you rely. For it irritates, to an incurable resentment, the minds of your enemies—to overrun them with the mercenary sons of rapine and plunder; devoting them and their possessions to the rapacity of hireling cruelty! If I were an American, as I am an Englishman, while a foreign troop was landed in my country, I never would lay down my arms—never—never—never.

Your own army is infected with the contagion of these illiberal allies. The spirit of plunder and of rapine is gone forth

among them. I know it—and notwithstanding what the noble earl, who moved the address, has given as his opinion of our American army, I know from authentic information, and the *most experienced officers*, that our discipline is deeply wounded. Whilst this is notoriously our sinking situation, America grows and flourishes: whilst our strength and discipline are lowered, hers are rising and improving.

But my lords, who is the man, that in addition to these disgraces and mischiefs of our army, has dared to authorize and associate to our arms the tomahawk and scalping-knife of the savage? To call into civilized alliance, the wild and inhuman savage of the woods; to delegate to the merciless Indian, the defence of disputed rights, and to wage the horrors of his barbarous war against our brethren? My lords, these enormities cry aloud for redress and punishment. Unless thoroughly done away, it will be a stain on the national character. It is a violation of the constitution. I believe it is against law. It is not the least of our national misfortunes, that the strength and character of our army are thus impaired. Infected with the mercenary spirit of robbery and rapine; familiarized to the horrid scenes of savage cruelty, it can no longer boast of the noble and generous principles which dignify a soldier; no longer sympathize with the dignity of the royal banner, nor feel the pride, pomp, and circumstance of glorious war, "that make ambition virtue!" What makes ambition virtue?—the sense of honor. But is the sense of honor consistent with a spirit of plunder, or the practice of murder? Can it flow from mercenary motives, or can it prompt to cruel deeds? Besides these murderers and plunderers, let me ask our ministers, what other allies have they acquired? What *other powers* have they associated to their cause? Have they entered into alliance with the *king of the gypsies*? Nothing, my lords, is too low or too ludicrous to be consistent with their counsels.

The independent views of America have been stated and asserted as the foundation of this address. My lords, no man wishes for the due dependence of America on this country more than I do. To preserve it, and not confirm that state of independence into which *your measures* hitherto have *driven* them, is the object which we ought to unite in attaining. The Americans, contending for their rights against arbitrary exactions, I love and admire. It is the struggle of free and virtuous patriots; but contending for independency and total disconnexion from England, as an Englishman, I cannot wish them success. For, in a due constitutional dependency, including the ancient supremacy of this country in regulating their commerce and navigation, consists the mutual happiness and pros-

perity both of England and America. She derived assistance and protection from us; and we reaped from her the most important advantages. She was, indeed, the fountain of our wealth, the nerve of our strength, the nursery and basis of our naval power. It is our duty, therefore, my lords, if we wish to save our country, most seriously to endeavor the recovery of these most beneficial subjects: and in this perilous crisis, perhaps the present moment may be the only one in which we can hope for success. For in their negotiations with France they have, or think they have, reason to complain: though it be notorious that they have received from that power, important supplies and assistance of various kinds, yet it is certain they expected it in a more decisive and immediate degree. America is in ill humor with France, on some points that have not entirely answered her expectations. Let us wisely take advantage of every possible moment of reconciliation. Besides, the natural disposition of America herself still leans towards England; to the old habits of connexion and mutual interest that united both countries. This *was* the established sentiment of all the continent; and still, my lords, in the great and principal part, the sound part of America, this wise and affectionate disposition prevails; and there is a very considerable part of America yet sound—the middle and the southern provinces; some parts may be factious and blind to their true interests; but if we express a wise and benevolent disposition to communicate with them those immutable rights of nature, and those constitutional liberties, to which they are equally entitled with ourselves; by a conduct so just and humane, we shall confirm the favorable, and conciliate the adverse. I say, my lords, the rights and liberties to which they are equally entitled with ourselves, but no more. I would participate to them every enjoyment and freedom which the colonizing subjects of a free state can possess, or wish to possess; and I do not see why they should not enjoy every fundamental right in their property, and every original substantial liberty, which Devonshire or Surrey, or the county I live in, or any other county in England, can claim; reserving always, as the sacred right of the mother country, the due constitutional dependency of the colonies. The inherent supremacy of the state in regulating and protecting the navigation and commerce of all her subjects, is necessary for the mutual benefit and preservation of every part, to constitute and preserve the prosperous arrangement of the whole empire.

The sound parts of America, of which I have spoken, must be sensible of these great truths, and of their real interests. America is not in that state of desperate and contemptible

rebellion which this country has been deluded to believe. It is not a wild and lawless banditti, who, having nothing to lose, might hope to snatch something from public convulsions. Many of their leaders and great men have a great stake in this great contest. The gentleman who conducts their armies, I am told, has an estate of four or five thousand pounds a year, and when I consider these things, I cannot but lament the inconsiderate violence of our penal acts, our declarations of treason and rebellion, with all the fatal effects of attainder and confiscation.

As to the disposition of foreign powers, which is asserted to be pacific and friendly, let us judge, my lords, rather by their actions and the nature of things, than by interested assertions. The uniform assistance, supplied to America by France, suggests a different conclusion. [The most important interests of France, in aggrandizing and enriching herself with what she most wants, supplies of every naval store from America, must inspire her with different sentiments.] The extraordinary preparations of the house of Bourbon, by land and by sea, from Dunkirk to the Streights, equally ready and willing to overwhelm these defenceless islands, should rouse us to a sense of their real disposition, and our own danger. Not five thousand troops in England!—hardly three thousand in Ireland! What can we oppose to the combined force of our enemies?—Scarcely twenty ships of the line fully or sufficiently manned, that any admiral's reputation would permit him to take the command of. The river of Lisbon in the possession of our enemies! The seas swept by American privateers. Our channel trade torn to pieces by them! In this complicated crisis of danger, weakness at home, and calamity abroad, terrified and insulted by the neighboring powers, unable to act in America, or acting only to be destroyed, where is the man with the forehead to promise or hope for success in such a situation? or, from perseverance in the measures that have driven us to it? Who has the forehead to do so? Where is that man? I should be glad to see his face.

You cannot *conciliate* America by your present measures. You cannot *subdue* her by your present, or by any measures. What, then, can you do? You cannot conquer; you cannot gain; but you can *address*; you can lull the fears and anxieties of the moment into an ignorance of the danger that should produce them. But, my lords, the time demands the language of truth. We must not now apply the flattering unction of servile compliance, or blind complaisance. In a just and necessary war, to maintain the rights or honor of my country, I would strip the shirt from my back to support it. But in such

a war as this, unjust in its principle, impracticable in its means, and ruinous in its consequences, I would not contribute a single effort, nor a single shilling. I do not call for vengeance on the heads of those who have been guilty: I only recommend to them to make their retreat. Let them walk off; and let them make haste, or they may be assured that speedy and condign punishment will overtake them.

My lords, I have submitted to you, with the freedom and truth which I think my duty, my sentiments on your present awful situation. I have laid before you the ruin of your power, the disgrace of your reputation, the pollution of your discipline, the contamination of your morals, the complication of calamities, foreign and domestic, that overwhelm your sinking country. Your dearest interests, your own liberties, the constitution itself, totters to the foundation. All this disgraceful danger, this multitude of misery, is the monstrous offspring of this unnatural war. We have been deceived and deluded too long. Let us now stop short. This is the crisis—the only crisis, of time and situation, to give us a possibility of escape from the fatal effects of our delusions. But if, in an obstinate and infatuated perseverance in folly, we slavishly echo the peremptory words this day presented to us, nothing can save this devoted country from complete and final ruin. We madly rush into multiplied miseries and "confusion worse confounded."

Is it possible, can it be believed, that ministers are yet blind to this impending destruction?—I did hope, that instead of this false and empty vanity, this overweening pride, engendering high conceits and presumptuous imaginations, that ministers would have humbled themselves in their errors, would have confessed and retracted them, and by an active, though a late repentance, have endeavored to redeem them. But, my lords, since they had neither sagacity to foresee, nor justice nor humanity to shun, these oppressive calamities; since not even severe experience can make them feel, nor the imminent ruin of their country awaken them from their stupefaction, the guardian care of parliament must interpose. I shall therefore, my lords, propose to you an amendment to the address to his majesty, to be inserted immediately after the two first paragraphs of congratulation on the birth of a princess, to recommend an immediate cessation of hostilities, and the commencement of a treaty to restore peace and liberty to America, strength and happiness to England, security and permanent prosperity to both countries.—This, my lords, is yet in our power; and let not the wisdom and justice of your lordships neglect the happy, and, perhaps, the only opportunity. By the establishment of irrevocable law, founded on mutual rights, and

ascertained by treaty, these glorious enjoyments may be firmly perpetuated. And let me repeat to your lordships, that the strong bias of America, at least of the wise and sounder parts of it, naturally inclines to this happy and constitutional reconnexion with you. Notwithstanding the temporary intrigues with France, we may still be assured of their ancient and confirmed partiality to us. America and France cannot be congenial. There is something decisive and confirmed in the honest American, that will not assimilate to the futility and levity of Frenchmen.

My lords, to encourage and confirm that innate inclination to this country, founded on every principle of affection, as well as consideration of interest; to restore that favorable disposition into a permanent and powerful reunion with this country; to revive the mutual strength of the empire; again to awe the house of Bourbon, instead of meanly truckling, as our present calamities compel us, to every insult of French caprice, and Spanish punctilio; to re-establish our commerce: to reassert our rights and our honor; to confirm our interests, and renew our glories for ever, a consummation most devoutly to be endeavored! and which, I trust, may yet arise from reconciliation with America; I have the honor of submitting to you the following amendment, which I move to be inserted after the two first paragraphs of the address.

"And that this house does most humbly advise and supplicate his majesty, to be pleased to cause the most speedy and effectual measures to be taken, for restoring peace in America: and that no time may be lost in proposing an immediate cessation of hostilities there, in order to the opening of a treaty for the final settlement of the tranquillity of these invaluable provinces, by a removal of the unhappy causes of this ruinous civil war; and by a just and adequate security against the return of the like calamities in times to come. And this house desire to offer the most dutiful assurances to his majesty, that they will, in due time, cheerfully co-operate with the magnanimity and tender goodness of his majesty, for the preservation of his people, by such explicit and most solemn declarations, and provisions of fundamental and revocable laws, as may be judged necessary for the ascertaining and fixing for ever the respective rights of Great Britain and her colonies."

In the course of this debate, Lord Suffolk, secretary for the northern department, undertook to defend the employment of the Indians in the war. His lordship contended, that, besides its *policy* and *necessity*, the measure was also allowable on *principle*. For that "it was perfectly justifiable to use all the means that *God and nature put into our hands!*"

I AM ASTONISHED! (exclaimed Lord Chatham, as he rose)—shocked! to hear such principles confessed—to hear them avowed in this house, or in this country: principles equally unconstitutional, inhuman, and unchristian!

My lords, I did not intend to have encroached again upon your attention; but I cannot repress my indignation. I feel myself impelled by every duty. My lords, we are called upon as members of this house, as men, as Christian men, to protest against such notions standing near the throne, polluting the ear of majesty. "That God and nature put into our hands!" I know not what ideas that lord may entertain of God and nature; but I know that such abominable principles are equally abhorrent to religion and humanity. What! to attribute the sacred sanction of God and nature to the massacres of the Indian scalping-knife—to the cannibal savage torturing, murdering, roasting, and eating; literally, my lords, *eating* the mangled victims of his barbarous battles! Such horrible notions shock every precept of religion, divine or natural, and every generous feeling of humanity. And, my lords, they shock every sentiment of honor; they shock me as a lover of honorable war, and a detester of murderous barbarity.

These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that right reverend bench, those holy ministers of the gospel, and pious pastors of our church; I conjure them to join in the holy work, and vindicate the religion of their God. I appeal to the wisdom and the law of *this learned* bench, to defend and support the justice of their country. I call upon the bishops, to interpose the unsullied sanctity of their lawn; upon the learned judges, to interpose the purity of their ermine, to save us from this pollution. I call upon the honor of your lordships, to reverence the dignity of your ancestors, and to maintain your own. I call upon the spirit and humanity of my country, to vindicate the national character. I invoke the genius of the constitution. From the tapestry that adorns these walls, the immortal ancestor of this noble lord frowns with indignation at the disgrace of his country. In vain he led your victorious fleets against the boasted Armada of Spain; in vain he defended and established the honor, the liberties, the religion, the *Protestant religion*, of this country, against the arbitrary cruelties of popery and the inquisition, if these more than popish cruelties and inquisitorial practices are let loose among us; to turn forth into our settlements, among our ancient connexions, friends, and relations, the merciless cannibal, thirsting for the blood of man, woman, and child! to send forth the infidel savage—against whom? against your Protestant brethren; to

lay waste their country, to desolate their dwellings, and extirpate their race and name, with these horrible hell-hounds of savage war!—*hell-hounds, I say, of savage war.* Spain armed herself with blood-hounds to extirpate the wretched natives of America; and we improve on the inhuman example even of Spanish cruelty: we turn loose these savage hell-hounds against our brethren and countrymen in America, of the same language, laws, liberties, and religion; endeared to us by every tie that should sanctify humanity.

My lords, this awful subject, so important to our honor constitution, and our religion, demands the most solemn and effectual inquiry. And I again call upon your lordships, and the united powers of the state, to examine it thoroughly and decisively, and to stamp upon it an indelible stigma of the public abhorrence. And I again implore those holy prelates of our religion, to do away these iniquities from among us. Let them perform a lustration; let them purify this house, and this country, from this sin.

My lords, I am old and weak, and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving this vent to my eternal abhorrence of such preposterous and enormous principles.

This speech had no effect. The address was agreed to

LORD CHATHAM'S SPEECH,

IN THE HOUSE OF LORDS, THE 11TH OF DECEMBER, 1777, AGAINST A MOTION FOR AN ADJOURNMENT.

My Lords,

It is not with less grief than astonishment I hear the motion now made by the noble earl, at a time when the affairs of this country present on every side prospects full of awe, terror, and impending danger; when, I will be bold to say, events of a most alarming tendency, little expected or foreseen, will shortly happen; when a cloud that may crush this nation, and bury it in destruction for ever, is ready to burst and overwhelm us in ruin. At so tremendous a season, it does not become your lordships, the great hereditary council of the nation, to neglect your duty, to retire to your country-seats for six weeks in quest of joy and merriment, while the real state of public affairs calls for grief, mourning, and lamentation; at least, for the fullest exertions of your wisdom. It is your duty, my lords as the grand hereditary council of the nation, to advise your sovereign, to be the protectors of your country, to feel your own weight and authority. As hereditary counsellors, as members of this house, you stand between the crown and the people; you are nearer the throne than the other branch of the legislature; it is your duty to surround and protect, to counsel and supplicate it. You hold the balance. Your duty is to see that the weights are properly poised, that the balance remains even, that neither may encroach on the other, and that the executive power may be prevented, by an unconstitutional exertion of even constitutional authority, from bringing the nation to destruction. My lords, I fear we are arrived at the very brink of that state; and I am persuaded that nothing short of a spirited interposition on your part, in giving speedy and wholesome advice to your sovereign, can prevent the people from feeling beyond remedy the full effects of that ruin which ministers have brought upon us. These calamitous circumstances ministers have been the cause of: and shall we, in such a state of things, when every moment teems with events productive of the most fatal narratives, shall we trust, during an adjournment of six weeks, to those men who have brought those calamities upon us, when, perhaps, our utter overthrow is plotting, nay, ripe for execution, without almost a possibility of prevention? Ten thousand brave men have fallen victims to

ignorance and rashness. The only army you have in America may, by this time, be no more. This very nation remains no longer safe than its enemies think proper to permit. I do not augur ill. Events of a most critical nature may take place before our next meeting. Will your lordships, then, in such a state of things, trust to the guidance of men, who, in every single step of this cruel, this wicked war, from the very beginning, have proved themselves weak, ignorant, and mistaken? I will not say, my lords, nor do I mean anything personal, or that they have brought premeditated ruin on this country. I will not suppose that they foresaw what has since happened; but I do contend, my lords, that their want of wisdom, their incapacity, their temerity in depending on their own judgment, or their base compliances with the orders and dictates of others, perhaps caused by the influence of one or two individuals, have rendered them totally unworthy of your lordships' confidence of the confidence of parliament, and those whose rights they are the constitutional guardians of, the people at large. A remonstrance, my lords, should be carried to the throne. The king has been deluded by his ministers. They have been imposed on by false information, or have, from motives best known to themselves, given apparent credit to what they have been convinced in their hearts was untrue. The nation has been betrayed into the ruinous measure of an American war by the arts of imposition, by their own credulity, through the means of false hopes, false pride, and promised advantages, of the most romantic and improbable nature. My lords, I do not wish to call your attention entirely to that point. I would fairly appeal to your own sentiments, whether I can be justly charged with arrogance or presumption, if I said, great and able as ministers think themselves, that all the wisdom of the nation is not confined to the narrow circle of their petty cabinet. I might, I think, without presumption, say, that your lordships, as one of the branches of the legislature, may be supposed as capable of advising your sovereign, in the moment of difficulty and danger, as any lesser council, composed of a fewer number; and who, being already so fatally trusted, have betrayed a want of honesty, or a want of talents. Is it, my lords, within the utmost stretch of the most sanguine expectation, that the same men who have plunged you into your present perilous and calamitous situation are the proper persons to rescue you from it? No, my lords, such an expectation would be preposterous and absurd. I say, my lords, you are now specially called upon to interpose. It is your duty to forego every call of business and pleasure, to give up your whole time to inquire into past misconduct; to provide remedies for the pres

ent; to prevent future evils; to rest on your arms, if I may use the expression, to watch for the public safety; to defend and support the throne, and if fate should so ordain it, to fall with becoming fortitude, with the rest of your fellow-subjects, in the general ruin. I fear this last must be the event of this mad, unjust, and cruel war. It is your lordships' duty to do everything in your power that it shall not—but, if it must be so, I trust your lordships and the nation will fall gloriously.

My lords, as the first and most immediate object of your inquiry, I would recommend to you to consider the true state of our home defence. We have heard much from a noble lord in this house, of the state of our navy. I cannot give an implicit belief to all I have heard on that important subject. I still retain my former opinion relative to the number of line-of-battle ships; but as an inquiry into the real state of the navy is destined to be the subject of future consideration, I do not wish to hear any more about it till that period arrives. I allow, in argument, that we have thirty-five ships of the line fit for actual service. I doubt much whether such a force would give us full command of the channel. I am certain, if it did, every other part of our possessions must lie naked and defenceless, in every quarter of the globe.

I fear our utter destruction is at hand. What, my lords, is the state of our military defence? I would not wish to expose our present weakness; but weak as we are, if this war should be continued, as the public declaration of persons in high confidence with their sovereign would induce us to suppose, is this nation to be entirely stripped? And if it should, would every soldier now in Britain be sufficient to give us an equality to the force of America? I will maintain they would not. Where then will men be procured? Recruits are not to be had in this country. Germany will give no more. I have read in the newspapers of this day, and I have reason to believe it true, that the head of the Germanic body has remonstrated against it, and has taken measures accordingly to prevent it. Ministers have, I hear, applied to the Swiss Cantons. The idea is preposterous. The Swiss never permit their troops to go beyond sea. But, my lords, even if men were to be procured in Germany, how will you march them to the waterside? Have not our ministers applied for the port of Emberden, and has it not been refused? I say, you will not be able to procure men even for your home defence, if some immediate steps be not taken. I remember, during the last war it was thought advisable to levy independent companies. They were, when completed, formed into battalions, and proved of great service. I love the army. I know its use. But I must never

theless own, that I was a great friend to the measure of establishing a national militia. I remember the last war, that there were three camps formed of that corps at once in this kingdom. I saw them myself. One at Winchester, another in the west, at Plymouth; and a third, if I recollect right, at Chatham. Whether the militia is at present in such a state as to answer the valuable purposes it did then, or is capable of being rendered so, I will not pretend to say; but I see no reason why, in such a critical state of affairs, the experiment should not be made, and why it may not be put again on the former respectable footing. I remember, all circumstances considered, when appearances were not nearly so melancholy and alarming as they are, that there were more troops in the county of Kent alone, for the defence of the kingdom, than there are now in the whole island.

My lords, I contend that we have not, nor can procure, any force sufficient to subdue America. It is monstrous to think of it. There are several noble lords present, well acquainted with military affairs. I call upon any one of them to rise and pledge himself, that the military force now within the kingdom is adequate to its defence, or that any possible force to be procured from Germany, Switzerland, or elsewhere, will be equal to the conquest of America. I am too perfectly persuaded of their abilities and integrity, to expect any such assistance from them. Oh! But if America is not to be conquered, she may be treated with. Conciliation is at length thought of. Terms are to be offered. Who are the persons that are to treat on the part of this afflicted and deluded country? The very men who have been the authors of our misfortunes. The very men who have endeavored, by the most pernicious policy, the highest injustice and oppression, the most cruel and devastating war, to enslave those people they would conciliate, to gain the confidence and affection of those who have survived the Indian tomahawk and German bayonet. Can your lordships entertain the most distant prospect of success from such a treaty and such negotiators? No, my lords, the Americans have virtue, and they must detest the principles of such men. They have understanding, and too much wisdom, to trust to the cunning and narrow politics which must cause such overtures on the part of their merciless persecutors. My lords, I maintain that they would shun, with a mixture of prudence and detestation, any proposition coming from that quarter. They would receive terms from such men, as snares to allure and betray. They would dread them as ropes meant to be put about their legs, in order to entangle and overthrow them in certain ruin. My lords, supposing that our domestic danger, if at all, is far dis-

tant; that our enemies will leave us at liberty to prosecute this war to the utmost of our ability; suppose your lordships should grant a fleet one day, an army another: all these, I do affirm, will avail nothing, unless you accompany it with advice. Ministers have been in error: experience has proved it; and what is worse, they continue it. They told you in the beginning, that 15,000 men would traverse all America, without scarcely an appearance of interruption. Two campaigns have passed since they gave us this assurance. Treble that number have been employed; one of your armies, which composed two thirds of the force by which America was to be subdued, has been totally destroyed, and is now led captive through those provinces you call rebellious. Those men whom you called cowards, poltroons, runaways, and knaves, are become victorious over your veteran troops: and, in the midst of victory, and flush of conquest, have set ministers an example of moderation and magnanimity well worthy of imitation.

My lords, no time should be lost which may promise to improve this disposition in America, unless, by an obstinacy founded in madness, we wish to stifle those embers of affection which, after all our savage treatment, do not seem as yet to have been entirely extinguished. While on one side we must lament the unhappy fate of that spirited officer, Mr. Burgoyne, and the gallant troops under his command, who were sacrificed to the wanton temerity and ignorance of ministers, we are as strongly compelled on the other to admire and applaud the generous, magnanimous conduct, the noble friendship, brotherly affection, and humanity of the victors, who, condescending to impute the horrid orders of massacre and devastation to their true authors, supposed that, as soldiers and Englishmen, those cruel excesses could not have originated with the general, nor were consonant to the brave and humane spirit of a British soldier, if not compelled to it as an act of duty. They traced the first cause of those diabolic orders to their true source; and, by that wise and generous interpretation, granted their professed destroyers terms of capitulation which they could be only entitled to as the makers of fair and honorable war.

My lords, I should not have presumed to trouble you, if the tremendous state of this nation did not, in my opinion, make it necessary. Such as I have this day described it to be, I do maintain it is. The same measures are still persisted in; and ministers, because your lordships have been deluded, deceived, and misled, presume that whenever the worst comes they will be enabled to shelter themselves behind parliament. This, my lords, cannot be the case. They have committed themselves and their measures to the fate of war, and they must abide the

issue. I tremble for this country. I am almost led to despair that we shall ever be able to extricate ourselves. At any rate, the day of retribution is at hand, when the vengeance of a much injured and afflicted people, will, I trust, fall heavily on the authors of their ruin; and I am strongly inclined to believe, that before the day to which the proposed adjournment shall arrive, the noble earl who moved it, will have just cause to repent of his motion.

MR. BURKE'S SPEECH,

APRIL 19, 1774, ON AMERICAN TAXATION

Sir,

I AGREE with the honorable gentleman who spoke last, that this subject is not new in this house. Very disagreeably to this house, very unfortunately to this nation, and to the peace and prosperity of this whole empire, no topic has been more familiar to us. For nine long years, session after session, we have been lashed round and round this miserable circle of occasional arguments and temporary expedients. I am sure our heads must turn, and our stomachs nauseate with them. We have had them in every shape; we have looked at them in every point of view. Invention is exhausted; reason is fatigued; experience has given judgment; but obstinacy is not yet conquered.

The honorable gentleman has made one endeavor more to diversify the form of this disgusting argument. He has thrown out a speech composed almost entirely of challenges. Challenges are serious things; and as he is a man of prudence as well as resolution, I dare say he has very well weighed those challenges before he delivered them. I had long the happiness to sit at the same side of the house, and to agree with the honorable gentleman on all the American questions. My sentiments, I am sure, are well known to him; and I thought I had been perfectly acquainted with his. Though I find myself mistaken, he will still permit me to use the privilege of an old friendship, he will permit me to apply myself to the house under the sanction of his authority; and, on the various grounds he has measured out, to submit to you the poor opinions which I have formed, upon a matter of importance enough to demand the fullest consideration I could bestow upon it.

He has stated to the house two grounds of deliberation; one narrow and simple, and merely confined to the question on your paper: the other more large and more complicated; comprehending the whole series of the parliamentary proceedings with regard to America, their causes, and their consequences. With regard to the latter ground, he states it as useless, and thinks it may be even dangerous, to enter into so extensive a field of inquiry. Yet, to my surprise, he had hardly laid down this restrictive proposition, to which his authority would have given so much weight, when directly, and with the same author-

ity, he condemns it; and declares it absolutely necessary to enter into the most ample historical detail. His zeal has thrown him a little out of his usual accuracy. In this perplexity, what shall we do, Sir, who are willing to submit to the law he gives us? He has reprobated in one part of his speech the rule he had laid down for debate in the other; and after narrowing the ground for all those who are to speak after him, he takes an excursion himself, as unbounded as the subject and the extent of his great abilities.

Sir, when I cannot obey all his laws, I will do the best I can. I will endeavor to obey such of them as have the sanction of his example; and to stick to that rule, which, though not consistent with the other, is the most rational. He was certainly in the right when he took the matter largely. I cannot prevail on myself to agree with him in his censure of his own conduct. It is not, he will give me leave to say, either useless or dangerous. He asserts, that retrospection is not wise; and the proper, the only proper, subject of inquiry, is, "not how we got into this difficulty, but how we are to get out of it." In other words, we are, according to him, to consult our invention, and to reject our experience. The mode of deliberation he recommends is diametrically opposite to every rule of reason, and every principle of good sense established amongst mankind. For, that sense and that reason, I have always understood, absolutely to prescribe, whenever we are involved in difficulties from the measures we have pursued, that we should take a strict review of those measures, in order to correct our errors if they should be corrigible; or at least to avoid a dull uniformity in mischief, and the unpitied calamity of being repeatedly caught in the same snare.

Sir, I will freely follow the honorable gentleman in his historical discussion, without the least management for men or measures, further than as they shall seem to me to deserve it. But before I go into that large consideration, because I would omit nothing that can give the house satisfaction, I wish to tread the narrow ground to which alone the honorable gentleman, in one part of his speech has so strictly confined us.

He desires to know, whether, if we were to repeal this tax, agreeably to the proposition of the honorable gentleman who made the motion, the Americans would not take post on this concession, in order to make a new attack on the next body of taxes; and whether they would not call for a repeal of the duty on wine, as loudly as they do now for the repeal of the duty on tea? Sir, I can give no security on this subject. But I will do all that I can, and all that can be fairly demanded. To the *experience* which the honorable gentleman reprobates in one

instant, and reverts to in the next; to that experience, without the least wavering or hesitation on my part, I steadily appeal; and would to God there was no other arbiter to decide on the vote with which the house is to conclude this day!

When parliament repealed the stamp act in the year 1766, I affirm, first, that the Americans did *not* in consequence of this measure call upon you to give up the former parliamentary revenue which subsisted in that country; or even any one of the articles which compose it. I affirm also, that when, departing from the maxims of that repeal, you revived the scheme of taxation, and thereby filled the minds of the colonists with new jealousy, and all sorts of apprehensions, then it was that they quarrelled with the old taxes, as well as the new; then it was and not till then, that they questioned all the parts of your legislative power; and by the battery of such questions have shaken the solid structure of this empire to its deepest foundations.

Of those two propositions I shall, before I have done, give such convincing, such damning proof, that however the contrary may be whispered in circles, or bawled in newspapers, they never more will dare to raise their voices in this house. I speak with great confidence. I have reason for it. The ministers are with me. *They* at least are convinced that the repeal of the stamp act had not, and that no repeal can have, the consequences which the honorable gentleman who defends their measures is so much alarmed at. To their conduct I refer him for a conclusive answer to this objection. I carry my proof irresistibly into the very body of both ministry and parliament; not on any general reasoning growing out of collateral matter, but on the conduct of the honorable gentleman's ministerial friends on the new revenue itself.

The act of 1767, which grants this tea duty, sets forth in its preamble, that it was expedient to raise a revenue in America, for the support of the civil government there, as well as for purposes still more extensive. To this support the act assigns six branches of duties. About two years after this act passed, the ministry, I mean the present ministry, thought it expedient to repeal five of the duties, and to leave (for reasons best known to themselves) only the sixth standing. Suppose any person at the time of that repeal, had thus addressed the minister: "Condemning, as you do, the repeal of the stamp act, why do you venture to repeal the duties upon glass, paper, and painters' colors? Let your pretence for the repeal be what it will, are you not thoroughly convinced, that your concessions will produce, not satisfaction, but insolence in the Americans; and that the giving up these taxes will necessitate the giving up of all

the rest?" This objection was as palpable then as it is now; and it was as good for preserving the five duties as for retaining the sixth. Besides, the minister will recollect, that the repeal of the stamp act had but just preceded his repeal; and the ill policy of that measure (had it been so impolitic as it has been represented), and the mischiefs it produced, were quite recent. Upon the principles therefore of the honorable gentleman, upon the principles of the minister himself, the minister has nothing at all to answer. He stands condemned by himself, and by all his associates old and new, as a destroyer, in the first trust of finance, of the revenues: and in the first rank of honor, as a betrayer of the dignity of his country.

Most men, especially great men, do not always know their well-wishers. I come to rescue that noble lord out of the hands of those he calls his friends; and even out of his own. I will do him the justice he is denied at home. He has not been this wicked or imprudent man. He knew that a repeal had no tendency to produce the mischiefs which give so much alarm to his honorable friend. His work was not bad in its principle, but imperfect in its execution; and the motion on your paper presses him only to complete a proper plan, which, by some unfortunate and unaccountable error, he had left unfinished.

I hope, Sir, the honorable gentleman who spoke last, is thoroughly satisfied, and satisfied out of the proceedings of ministry on their own favorite act, that his fears from a repeal are groundless. If he is not, I leave him, and the noble lord who sits by him, to settle the matter, as well as they can, together; for if the repeal of American taxes destroys all our government in America—He is the man!—and he is the worst of all repealers, because he is the last.

But I hear it rung continually in my ears, now and formerly—"the preamble! what will become of the preamble, if you repeal this tax?"—I am sorry to be compelled so often to expose the calamities and disgraces of parliament. The preamble of this law, standing as it now stands, has the lie direct given to it by the provisionary part of the act; if that can be called provisionary which makes no provision. I should be afraid to express myself in this manner, especially in the face of such a formidable array of ability as is now drawn up before me, composed of the ancient household troops of that side of the house, and the new recruits from this, if the matter were not clear and indisputable. Nothing but truth could give me this firmness; but plain truth, and clear evidence can be beat down by no ability. The clerk will be so good as to turn to the act, and to read this favorite preamble:

"*Whereas it is* expedient *that a revenue should be raised in your majesty's dominions in America, for making a more* certain *and* adequate *provision for defraying the charge of the* administration of justice, and support of civil government, *in such provinces where it shall be found necessary; and toward* further defraying *the expense of* defending, protecting, and securing the said dominions."

You have heard this pompous performance. Now where is the revenue which is to do all these mighty things? Five-sixths repealed—abandoned—sunk—gone—lost for ever. Does the poor solitary tea-duty support the purposes of this preamble? Is not the supply there stated as effectually abandoned as if the tea-duty had perished in the general wreck? Here, Mr. Speaker, is a precious mockery—a preamble without an act—taxes granted in order to be repealed—and the reasons of the grant still carefully kept up! This is raising a revenue in America! This is preserving dignity in England! If you repeal this tax in compliance with the motion, I readily admit that you lose this fair preamble. Estimate your loss in it. The object of the act is gone already; and all you suffer is the purging of the statute-book of the opprobrium of an empty, absurd, and false recital.

It has been said again and again, that the five taxes were repealed on commercial principles. It is so said in the paper in my hand; a paper which I constantly carry about; which I have often used, and shall often use again. What is got by this paltry pretence of commercial principles I know not; for, if your government in America is destroyed by the *repeal of taxes*, it is of no consequence upon what ideas the repeal is grounded. Repeal this tax too upon commercial principles, if you please. These principles will serve as well now as they did formerly. But you know that, either your objection to a repeal from these supposed consequences has no validity, or that this pretence never could remove it. This commercial motive never was believed by any man, either in America, which this letter is meant to soothe, or in England, which it is meant to deceive. It was impossible it should. Because every man, in the least acquainted with the detail of commerce, must know, that several of the articles on which the tax was repealed, were fitter objects of duties than almost any other articles that could possibly be chosen: without comparison more so, than the ten that was left taxed; as infinitely less liable to be eluded by contraband. The tax upon red and white lead was of this nature. You have, in this kingdom, an advantage in lead, that amounts to a monopoly. When you find yourself in this situation of advantage, you sometimes venture to ta-

even your own export. You did so, soon after the last war; when, upon this principle, you ventured to impose a duty on coals. In all the articles of American contraband trade, who ever heard of the smuggling of red lead, and white lead? You might, therefore, well enough, without danger of contraband, and without injury to commerce (if this were the whole consideration) have taxed these commodities. The same may be said of glass. Besides, some of the things taxed were so trivial, that the loss of the objects themselves and their utter annihilation out of American commerce, would have been comparatively as nothing. But is the article of tea such an object in the trade of England, as not to be felt, or felt but slightly, like white lead, and red lead, and painters' colors? Tea is an object of far other importance. Tea is perhaps the most important object, taking it with its necessary connexions, of any in the mighty circle of our commerce. If commercial principles had been the true motives to the repeal, or had they been at all attended to, tea would have been the last article we should have left taxed for a subject of controversy.

Sir, it is not a pleasant consideration; but nothing in the world can read so awful and so instructive a lesson, as the conduct of ministry in this business, upon the mischief of not having large and liberal ideas in the management of great affairs. Never have the servants of the state looked at the whole of your complicated interests in one connected view. They have taken things, by bits and scraps, some at one time and one pretence, and some at another, just as they pressed, without any sort of regard to their relations or dependencies. They never had any kind of system, right or wrong; but only invented occasionally some miserable tale for the day, in order meanly to sneak out of difficulties, into which they had proudly strutted. And they were put to all these shifts and devices, full of meanness and full of mischief, in order to pilfer piecemeal a repeal of an act, which they had not the generous courage, when they found and felt their error, honorably and fairly to disclaim. By such management, by the irresistible operation of feeble councils, so paltry a sum as three-pence in the eyes of a financier, so insignificant an article as tea in the eyes of a philosopher, have shaken the pillars of a commercial empire that circled the whole globe.

Do you forget that, in the very last year, you stood on the precipice of general bankruptcy? Your danger was indeed great. You were distressed in the affairs of the East India company; and you well know what sort of things are involved in the comprehensive energy of that significant appellation. I am not called upon to enlarge to you on that danger, which

you thought proper yourselves to aggravate, and display to the world with all the parade of indiscreet declamation. The monopoly of the most lucrative trades, and the possession of imperial revenues, had brought you to the verge of beggary and ruin. Such was your representation—such, in some measure, was your case. The vent of ten millions of pounds of this commodity, now locked up by the operation of an injudicious tax, and rotting in the warehouses of the company, would have prevented all this distress, and all that series of desperate measures which you thought yourselves obliged to take in consequence of it. America would have furnished that rent, which no other part of the world can furnish but America: where tea is next to a necessary of life: and where the demand grows upon the supply. I hope our dear-bought East India committees have done us at least so much good, as to let us know, that without a more extensive sale of that article, our East India revenues and acquisitions can have no certain connexion with this country. It is through the American trade of tea that your East India conquests are to be prevented from crushing you with their burthen. They are ponderous indeed; and they must have that great country to lean upon, or they tumble upon your head. It is the same folly that has lost you at once the benefit of the west and the east. This folly has thrown open folding-doors to contraband; and will be the means of giving the profits of the trade of your colonies, to every nation but yourselves. Never did a people suffer so much for the empty words of a preamble. It must be given up. For on what principle does it stand? This famous revenue stands, at this hour, on all the debate, as a description of revenue not as yet known in all the comprehensive (but too comprehensive!) vocabulary of finance—*a preambulary tax*. It is indeed a tax of sophistry, a tax of pedantry, a tax of disputation, a tax of war and rebellion, a tax for anything but benefit to the imposers, or satisfaction to the subject.

Well! but whatever it is, gentlemen will force the colonists to take the teas. You will force them? has seven years' struggle been yet able to force them? O, but it seems "we are in the right—the tax is trifling—in effect, it is rather an exoneration than an imposition; three-fourths of the duty formerly payable on teas exported to America is taken off; the place of collection is only shifted; instead of the retention of a shilling from the drawback here, it is three-pence custom paid in America." All this, Sir, is very true. But this is the very folly and mischief of the act. Incredible as it may seem, you know that you have deliberately thrown away a

large duty which you hold secure and quiet in your hands, for the vain hope of getting one three-fourths less, through every hazard, through certain litigation, and possibly through war.

The manner of proceeding in the duties on paper and glass, imposed by the same act, was exactly in the same spirit. There are heavy excises on those articles when used in England. On export, these excises are drawn back. But instead of withholding the drawback, which might have been done, with ease, without charge, without possibility of smuggling; and instead of applying the money (money already in your hands) according to your pleasure, you began your operations in finance by flinging away your revenue; you allowed the whole drawback on export, and then you charged the duty (which you had before discharged) payable in the colonies; where it was certain the collection would devour it to the bone; if any revenue were ever suffered to be collected at all. One spirit pervades and animates the whole mass.

Could anything be a subject of more just alarm to America, than to see you go out of the plain high-road of finance, and give up your most certain revenues and your clearest interest, merely for the sake of insulting your colonies? No man ever doubted that the commodity of tea could bear an imposition of three-pence. But no commodity will bear three-pence, or will bear a penny, when the general feelings of men are irritated, and two millions of people are resolved not to pay. The feelings of the colonies were formerly the feelings of Great Britain. Theirs were formerly the feelings of Mr. Hampden when called upon for the payment of twenty shillings. Would twenty shillings have ruined Mr. Hampden's fortune? No! but the payment of half twenty shillings, on the principle it was demanded, would have made him a slave. It is the weight of that preamble, of which you are so fond, and not the weight of the duty, that the Americans are unable and unwilling to bear.

It is then, Sir, upon the *principle* of this measure, and nothing else, that we are at issue. It is a principle of political expediency. Your act of 1767 asserts, that it is expedient to raise a revenue in America; your act of 1769, which takes away that revenue, contradicts the act of 1767, and, by something much stronger than words, asserts, that it is not expedient. It is a reflection upon your wisdom to persist in a solemn parliamentary declaration of the expediency of any object, for which, at the same time, you make no sort of provision. And pray Sir, let not this circumstance escape you; it is very material that the preamble of this act, which we wish to repeal, is not *declaratory of right*, as some gentlemen seem to argue it; it is

only a recital of the *expediency* of a certain exercise of a right supposed already to have been asserted; an exercise you are now contending for by ways and means, which you confess, though they were obeyed, to be utterly insufficient for their purpose. You are therefore at this moment in the awkward situation of fighting for a phantom; a quiddity; a thing that wants, not only a substance, but even a name; for a thing, which is neither abstract right, nor profitable enjoyment.

They tell you, Sir, that your dignity is tied to it. I know not how it happens, but this dignity of yours is a terrible encumbrance to you; for it has of late been ever at war with your interest, your equity, and every idea of your policy. Show the thing you contend for to be reason; show it to be common sense; show it to be the means of attaining some useful end; and then I am content to allow it what dignity you please. But what dignity is derived from the perseverance in absurdity, is more than I ever could discern. The honorable gentleman has said well—indeed, in most of his *general* observations I agree with him—he says, that his subject does not stand as it did formerly. Oh, certainly not! every hour you continue on this ill-chosen ground, your difficulties thicken on you; and therefore my conclusion is, remove from a bad position as quickly as you can. The disgrace, and the necessity of yielding, both of them, grow upon you every hour of your delay.

But will you repeal the act, says the honorable gentleman, at this instant when America is in open resistance to your authority, and that you have just revived your system of taxation? He thinks he has driven us into a corner. But thus pent up, I am content to meet him; because I enter the lists supported by my old authority, his new friends, the ministers themselves. The honorable gentleman remembers, that about five years ago as great disturbances as the present prevailed in America on account of the new taxes. The ministers represented these disturbances as treasonable; and this house thought proper, on that representation, to make a famous address for a revival, and for a new application, of a statute of Henry VIII. We besought the king, in that well-considered address, to inquire into treasons, and to bring the supposed traitors from America to Great Britain for trial. His majesty was pleased graciously to promise a compliance with our request. All the attempts from this side of the house to resist these violences, and to bring about a repeal, were treated with the utmost scorn. An apprehension of the very consequences now stated by the honorable gentleman, was then given as a reason for shutting the door against all hope of such an alteration. And so strong was the spirit

for supporting the new taxes, that the session concluded with the following remarkable declaration. After stating the vigorous measures which had been pursued, the speech from the throne proceeds:

You have assured me of your firm *support in the* prosecution *of them. Nothing, in my opinion, could be more likely to enable the well disposed among my subjects in that part of the world, effectually to discourage and defeat the designs of the factious and seditious, than the hearty concurrence of every branch of the legislature, in* maintaining the execution of the laws in every *part of my dominions.*

After this, no man dreamt that a repeal under this ministry could possibly take place. The honorable gentleman knows as well as I, that the idea was utterly exploded by those who sway the house. This speech was made on the ninth day of May, 1769. Five days after this speech, that is, on the 13th of the same month, the public circular letter, a part of which I am going to read to you, was written by Lord Hillsborough, secretary of state for the colonies. After reciting the substance of the king's speech, he goes on thus:

"*I can take upon me to assure you, notwithstanding insinuations to the contrary, from men with* factious and seditious views, *that his majesty's* present administration have at no time entertained a design to propose to parliament to lay any further taxes upon America, for the purpose of RAISING A REVENUE; *and that it is at present their intention to propose, the next session of parliament, to take off the duties upon glass, paper, and colors, upon consideration of such duties* having been laid contrary to the true principles of commerce.

"*These have* always *been, and* still are, *the sentiments of his* majesty's present servants; *and by which their conduct in* respect to America has been governed. *And* his majesty *relies upon your prudence and fidelity for such an explanation of* his *measures, as may tend to remove the prejudices which have been excited by the misrepresentations of those who are enemies to the peace and prosperity of Great Britain and her colonies; and to re-establish that mutual* confidence and affection, *upon which the glory and safety of the British empire depend.*"

Here, Sir, is a canonical book of ministerial scripture; the general epistle to the Americans. What does the gentleman say to it? Here a repeal is promised; promised without condition; and while your authority was actually resisted. I pass by the public promise of a peer relative to the repeal of taxes by this house. I pass by the use of the king's name in a matter of supply, that sacred and reserved right of the Commons. I conceal the ridiculous figure of parliament, hurling its thunders

at the gigantic rebellion of America; and then, five days after, prostrate at the feet of those assemblies we affected to despise, begging them, by the intervention of our ministerial sureties, to receive our submission; and heartily promising amendment. These might have been serious matters formerly; but we are grown wiser than our fathers. Passing, therefore, from the constitutional consideration to the mere policy, does not this letter imply, that the idea of taxing America for the purpose of revenue is an abominable project; when the ministry suppose none but *factious* men, and with seditious views, could charge them with it? does not this letter adopt and sanctify the American distinction of *taxing for revenue?* does it not formally reject all future taxation on that principle? does it not state the ministerial rejection of such principle of taxation, not as the occasional, but the constant opinion of the king's servants? does it not say (I care not how consistently, but does it not say) that their conduct with regard to America has been *always* governed by this policy? It goes a great deal further. These excellent and trusty servants of the king, justly fearful lest they themselves should have lost all credit with the world, bring out the image of their gracious sovereign from the inmost and most sacred shrine, and they pawn him as a security for their promises.—"*His majesty* relies on your prudence and fidelity for such an explanation of *his* measures." These sentiments of the minister, and these measures of his majesty, can only relate to the principle and practice of taxing for a revenue; and accordingly Lord Botetourt, stating it as such, did, with great propriety, and in the exact spirit of his instructions, endeavor to remove the fears of the Virginian assembly, lest the sentiments, which it seems (unknown to the world) had *always* been those of the ministers, and by which *their* conduct in *respect to America had been governed*, should, by some possible revolution, favorable to wicked American taxes, be hereafter counteracted. He addresses them in this manner:

It may possibly be objected, that, as his Majesty's present administration are not immortal, *their successors may be inclined to attempt to undo what the present ministers shall have attempted to perform; and to that objection I can give you but this answer; that it is my firm opinion, that the plan I have stated to you will certainly take place, and that it will never be departed from; and so determined am I for ever to abide by it, that I will be content to be declared infamous, if I do not, to the last hour of my life, at all times, in all places, and upon all occasions, exert every power with which I either am, or ever shall be legally invested, in order to obtain and* maintain *for the continent of America that* satisfaction *which I have been authorized to promise this day, by the* confiden

tun *servants of our gracious sovereign, who to my certain knowledge rates his honor so high*, that he would rather part with his crown, than preserve it by deceit.

A glorious and true character! which (since we suffer his ministers with impunity to answer for his ideas of taxation) we ought to make it our business to enable his majesty to preserve in all its lustre. Let him have character, since ours is no more! Let some part of government be kept in respect!

This epistle was not the letter of lord Hillsborough solely; though he held the official pen. It was the letter of the noble lord upon the floor, and all the king's then ministers, who (with I think the exception of two only) are his ministers at this hour. The very first news that a British parliament heard of what it was to do with the duties which it had given and granted to the king, was by the publication of the votes of American assemblies. It was in America that your resolutions were predeclared. It was from thence that we knew to a certainty, how much exactly, and not a scruple more nor less, we were to repeal. We were unworthy to be let into the secret of our own conduct. The assemblies had *confidential* communications from his majesty's *confidential* servants. We were nothing but instruments. Do you, after this, wonder, that you have no weight and no respect in the colonies? After this, are you surprised, that parliament is every day and everywhere losing (I feel it with sorrow, I utter it with reluctance) that reverential affection, which so endearing a name of authority ought ever to carry with it; that you are obeyed solely from respect to the bayonet; and that this house, the ground and pillar of freedom, is itself held up only by the treacherous under-pinning and clumsy buttresses of arbitrary power?

If this dignity, which is to stand in the place of just policy and common sense, had been consulted, there was a time for preserving it, and for reconciling it with any concession. If in the session of 1768, that session of idle terror and empty menaces, you had, as you were often pressed to do, repealed these taxes; then your strong operations would have come justified and enforced, in case your concessions had been returned by outrages. But, preposterously, you began with violence; and before terrors could have any effect, either good or bad, your ministers immediately begged pardon, and promised that repeal to the obstinate Americans which they had refused in an easy, good-natured, complying British parliament. The assemblies, which had been publicly and avowedly dissolved for *their* contumacy, are called together to receive *your* submission. Your ministerial directors blustered like tragic tyrants here; and then went mumping with a sore leg in America

canting and whining, and complaining of faction, which represented them as friends to a revenue from the colonies. I hope nobody in this house will hereafter have the impudence to defend American taxes in the name of ministry. The moment they do, with this letter of attorney in my hand, I will tell them, in the authorized terms, they are wretches, "with factious and seditious views; enemies to the peace and prosperity of the mother country and the colonies," and subverters "of the mutual affection and confidence on which the glory and safety of the British empire depend."

After this letter, the question is no more on propriety or dignity. They are gone already. The faith of your sovereign is pledged for the political principle. The general declaration in the letter goes to the whole of it. You must therefore either abandon the scheme of taxing; or you must send the ministers tarred and feathered to America, who dare to hold out the royal faith for a renunciation for all taxes for revenue. Them you must punish, or this faith you must preserve. The preservation of this faith is of more consequence than the duties on *red lead*, or *white lead*, or on broken *glass*, or *atlas-ordinary*, or *demy-fine*, or *blue-royal*, or *bastard*, or *fool's-cap*, which you have given up; or the three-pence on tea which you retained. The letter went stamped with the public authority of this kingdom. The instructions for the colony government go under no other sanction; and America cannot believe, and will not obey you, if you do not preserve this channel of communication sacred. You are now punishing the colonies for acting on distinctions, held out by that very ministry which is here shining in riches, in favor, and in power; and urging the punishment of the very offence to which they had themselves been the tempters.

Sir, if reasons respecting simply your own commerce, which is your own convenience, were the sole grounds of the repeal of the five duties; why does lord Hillsborough, in disclaiming in the name of the king and ministry their ever having had an intent to tax for revenue, mention it as the means "of re-establishing the confidence and affection of the colonies?" Is it a way of soothing *others*, to assure them that you will take good care of *yourself*? The medium, the only medium, for regaining their affection and confidence, is, that you will take off something oppressive to their minds. Sir, the letter strongly enforces that idea: for though the repeal of the taxes is promised on commercial principles, yet the means of counteracting "the insinuations of men with factious and seditious views," is, by a disclaimer of the intention of taxing for revenue, as a constant

invariable sentiment and rule of conduct in the government of America.

I remember that the noble lord on the floor, not in a former debate to be sure (it would be disorderly to refer to it, I suppose I read it somewhere), but the noble lord was pleased to say, that he did not conceive how it could enter into the head of man to impose such taxes as those of 1767; I mean those taxes which he voted for imposing, and voted for repealing; as being taxes, contrary to all the principles of commerce, laid on *British manufactures.*

I dare say the noble lord is perfectly well read, because the duty of his particular office requires he should be so, in all our revenue laws; and in the policy which is to be collected out of them. Now, Sir, when he had read this act of American revenue, and a little recovered from his astonishment, I suppose he made one step retrograde (it is but one) and looked at the act which stands just before in the statute book. The American revenue act is the forty-fifth chapter; the other to which I refer is the forty-fourth of the same session. These two acts are both to the same purpose; both revenue acts; both taxing out of the kingdom; and both taxing British manufactures exported. As the 45th is an act for raising a revenue in America, the 44th is an act for raising a revenue in the Isle of Man. The two acts perfectly agree in all respects, except one. In the act for taxing the Isle of Man, the noble lord will find (not, as in the American act, four or five articles) but almost the *whole body*, of British manufactures, taxed from two and a half to fifteen *per cent.* and some articles, such as that of spirits, a great deal higher. You did not think it uncommercial to tax the whole mass of your manufactures, and, let me add, your agriculture too; for, I now recollect, British corn is there also taxed up to ten *per cent.* and this too in the very head-quarters, the very citadel of smuggling, the Isle of Man. Now will the noble lord condescend to tell me why he repealed the taxes on your manufactures sent out to America, and not the taxes on the manufactures exported to the Isle of Man? The principle was exactly the same, the objects charged infinitely more extensive, the duties, without comparison, higher. Why? why, notwithstanding all his childish pretexts, because the taxes were quietly submitted to in the Isle of Man; and because they raised a flame in America. Your reasons were political, not commercial. The repeal was made, as Lord Hillsborough's letter well expresses it, to regain "the confidence and affection of the colonies, on which the glory and safety of the British empire depend." A wise and just motive surely, if ever there was such. But the mischief and dishonor is, that you have

not done what you have given the colonies just cause to expect when your ministers disclaimed the idea of taxes for a revenue. There is nothing simple, nothing manly, nothing ingenuous, open, decisive, or steady, in the proceeding, with regard either to the continuance or the repeal of the taxes. The whole has an air of littleness and fraud. The article of tea is slurred over in the circular letter, as it were by accident—nothing is said of a resolution either to keep that tax, or to give it up. There is no fair dealing in any part of the transaction.

If you mean to follow your true motive and your public faith, give up your tax on tea for raising a revenue, the principle of which has, in effect, been disclaimed in your name; and which produces you no advantage; no, not a penny. Or, if you choose to go on with a poor pretence instead of a solid reason, and will still adhere to your cant of commerce, you have ten thousand times more strong commercial reasons for giving up this duty on tea, than for abandoning the five others that you have already renounced.

The American consumption of teas is annually, I believe, worth £300,000 at the least farthing. If you urge the American violence as a justification of your perseverance in enforcing this tax, you know that you can never answer this plain question—Why did you repeal the others given in the same act, whilst the very same violence subsisted?—But you did not find the violence cease upon that concession. No! because the concession was far short of satisfying the principle which lord Hillsborough had abjured! or even the pretence on which the repeal of the other taxes was announced: and because, by enabling the East India company to open a shop for defeating the American resolution not to pay that specific tax, you manifestly showed a hankering after the principle of the act which you formerly had renounced. Whatever road you take leads to a compliance with this motion. It opens to you at the end of every vista. Your commerce, your policy, your promises, your reasons, your pretences, your consistency, your inconsistency,—all jointly oblige you to this repeal.

But still it sticks in our throats, if we go so far, the Americans will go farther.—We do not know that. We ought, from experience, rather to presume the contrary. Do we not know for certain, that the Americans are going on as fast as possible, whilst we refuse to gratify them? can they do more, or can they do worse, if we yield this point? I think this concession will rather fix a turnpike to prevent a further progress. It is impossible to answer for bodies of men. But I am sure the natural effect of fidelity, clemency, kindness in governors, is peace, good-will, order, and esteem, on the part of the govern-

ed. I would certainly, at least, give these fair principles a fair trial; which, since the making of this act to this hour, they never have had.

Sir, the honorable gentleman having spoken what he thought necessary upon the narrow part of the subject, I have given him, I hope, a satisfactory answer. He next presses me by a variety of direct challenges and oblique reflections to say something on the historical part. I shall, therefore, Sir, open myself fully on that important and delicate subject; not for the sake of telling you a long story (which, I know, Mr. Speaker, you are not particularly fond of,) but for the sake of the weighty instruction that, I flatter myself, will necessarily result from it. It shall not be longer, if I can help it, than so serious a matter requires.

Permit me then, Sir, to lead your attention very far back; back to the act of navigation; the corner-stone of the policy of this country, with regard to its colonies. Sir, that policy was, from the beginning, purely commercial; and the commercial system was wholly restrictive. It was the system of a monopoly. No trade was let loose from that constraint, but merely to enable the colonists to dispose of what, in the course of your trade, you could not take; or to enable them to dispose of such articles as we forced upon them, and for which, without some degree of liberty, they could not pay. Hence all your specific and detailed enumeration: hence the innumerable checks and counterchecks: hence that infinite variety of paper chains by which you bind together this complicated system of the colonies. This principle of commercial monopoly runs through no less than twenty-nine acts of parliament, from the year 1660 to the unfortunate period of 1764.

In all those acts the system of commerce is established, as that, from whence alone you proposed to make the colonies contribute (I mean directly and by the operation of your superintending legislative power) to the strength of the empire. I venture to say, that during that whole period, a parliamentary revenue from thence was never once in contemplation. Accordingly, in all the number of laws passed with regard to the plantations, the words which distinguish revenue laws, specifically as such, were, I think, premeditatedly avoided. I do not say, Sir, that a form of words alters the nature of the law, or abridges the power of the lawgiver. It certainly does not. However, titles and formal preambles are not always idle words; and the lawyers frequently argue from them. I state these facts to show, not what was your right, but what has been your settled policy. Our revenue laws have usually a *title*, purporting their being *grants;* and the words *give and grant*

usually precede the enacting parts. Although duties were imposed on America in acts of King Charles the Second, and in acts of King William, no one title of giving "an aid to his majesty," or any other of the usual titles to revenue acts, was to be found in any of them till 1764; nor were the words "give and grant" in any preamble until the 6th of George the Second. However the title of this act of George the Second, notwithstanding the words of donation, considers it merely as a regulation of trade, "an act for the better securing of the trade of his majesty's sugar colonies in America." This act was made on a compromise of all, and at the express desire of a part, of the colonies themselves. It was therefore in some measure with their consent; and having a title directly purporting only a *commercial regulation*, and being in truth nothing more, the words were passed by, at a time when no jealousy was entertained, and things were little scrutinized. Even Governor Bernard, in his second printed letter, dated in 1763, gives it as his opinion, that "it was an act of *prohibition*, not of revenue." This is certainly true, that no act avowedly for the purpose of revenue, and with the ordinary title and recital taken together, is found in the statute book until the year I have mentioned; that is, the year 1764. All before this period stood on commercial regulation and restraint. The scheme of a colony revenue by British authority appeared therefore to the Americans in the light of a great innovation; the words of Governor Bernard's ninth letter, written in Nov. 1765, state this idea very strongly: "it must," says he, "have been supposed, *such an innovation as a parliamentary taxation*, would cause a great *alarm*, and meet with much *opposition* in most parts of America: it was *quite new* to the people, and had *no visible bounds* set to it." After stating the weakness of government there, he says, "was this a time to introduce *so great a novelty* as a parliamentary inland taxation in America?" Whatever the right might have been, this mode of using it was absolutely new in policy and practice.

Sir, they who are friends to the schemes of American revenue say, that the commercial restraint is full as hard a law for America to live under. I think so too. I think it, if uncompensated, to be a condition of as rigorous servitude as men can be subject to. But America bore it from the fundamental act of navigation until 1764.—Why? because men do bear the inevitable constitution of their original nature with all its infirmities. The act of navigation attended the colonies from their infancy, grew with their growth, and strengthened with their strength. They were confirmed in obedience to it, even more by usage than by law. They scarcely had remembered

a time when they were not subject to such restraint. Besides, they were indemnified for it by a pecuniary compensation. Their monopolist happened to be one of the richest men in the world. By his immense capital (primarily employed, not for their benefit, but his own) they were enabled to proceed with their fisheries, their agriculture, their ship-building (and their trade too within the limits), in such a manner as got far the start of the slow languid operations of unassisted nature. This capital was a hot-bed to them. Nothing in the history of mankind is like their progress. For my part, I never cast an eye on their flourishing commerce, and their cultivated and commodious life, but they seem to me rather ancient nations grown to perfection through a long series of fortunate events, and a train of successful industry, accumulating wealth in many centuries, than the colonies of yesterday; than a set of miserable outcasts, a few years ago, not so much sent as thrown out, on the bleak and barren shore of a desolate wilderness three thousand miles from all civilized intercourse.

All this was done by England, whilst England pursued trade, and forgot revenue. You not only acquired commerce, but you actually created the very objects of trade in America; and by that creation you raised the trade of this kingdom at least four-fold. America had the compensation of your capital, which made her bear her servitude. She had another compensation, which you are now going to take away from her. She had, except the commercial restraint, every characteristic mark of a free people in all her internal concerns. She had the image of the British constitution. She had the substance. She was taxed by her own representatives. She chose most of her own magistrates. She paid them all. She had in effect the sole disposal of her own internal government. This whole state of commercial servitude and civil liberty, taken together, is certainly not perfect freedom; but comparing it with the ordinary circumstances of human nature, it was a happy and a liberal condition.

I know, Sir, that great and not unsuccessful pains have been taken to inflame our minds by an outcry, in this house and out of it, that in America the act of navigation neither is, nor ever was, obeyed. But if you take the colonies through, I affirm, that its authority never was disputed; that it was nowhere disputed for any length of time; and on the whole, that it was well observed. Wherever the act pressed hard, many individuals indeed evaded it. This is nothing. These scattered individuals never denied the law, and never obeyed it. Just as it happens whenever the laws of trade, whenever the laws of revenue, press hard upon the people in England; in that case

all your shores are full of contraband. Your right to give a monopoly to the East India company, your right to lay immense duties on French brandy, are not disputed in England. You do not make this charge on any man. But you know that there is not a creek from Pentland Frith to the Isle of Wight, in which they do not smuggle immense quantities of teas, East India goods, and brandies. I take it for granted, that the authority of Governor Bernard on this point is indisputable. Speaking of these laws, as they regarded that part of America now in so unhappy a condition, he says, "I believe they are nowhere better supported than in this province; I do not pretend that it is entirely free from a breach of these laws; but that such a breach, if discovered, is justly punished." What more can you say of the obedience to any laws in any country? An obedience to these laws formed the acknowledgment, instituted by yourselves, for your superiority; and was the payment you originally imposed for your protection.

Whether you were right or wrong in establishing the colonies on the principles of commercial monopoly rather than on that of revenue, is at this day a problem of mere speculation. You cannot have both by the same authority. To join together the restraints of an universal internal and external monopoly, with an universal internal and external taxation, is an unnatural union; perfect uncompensated slavery. You have long since decided for yourself and them; and you and they have prospered exceedingly under that decision.

This nation, Sir, never thought of departing from that choice until the period immediately on the close of the last war. Then a scheme of government new in many things seemed to have been adopted. I saw, or thought I saw, several symptoms of a great change, whilst I sat in your gallery, a good while before I had the honor of a seat in this house. At that period the necessity was established of keeping up no less than twenty new regiments, with twenty colonels capable of seats in this house. This scheme was adopted with very general applause from all sides, at the very time that, by your conquests in America, your danger from foreign attempts in that part of the world was much lessened, or indeed rather quite over. When this huge increase of military establishment was resolved on, a revenue was to be found to support so great a burthen. Country gentlemen, the great patrons of economy, and the great resisters of a standing armed force, would not have entered with much alacrity into the vote for so large and so expensive an army, if they had been very sure that they were to continue to pay for it. But hopes of another kind were held out to them; and in particular, I well remember that Mr. Townshend, in a brilliant

narangue on this subject, did dazzle them, by playing before their eyes the image of a revenue to be raised in America.

Here began to dawn the first glimmering of this new colony system. It appeared more distinctly afterwards, when it was devolved upon a person to whom, on other accounts, this country owes very great obligations. I do believe, that he had a very serious desire to benefit the public. But with no small study of the detail, he did not seem to have his view, at least equally, carried to the total circuit of our affairs. He generally considered his objects in lights that were rather too detached. Whether the business of an American revenue was imposed upon him altogether; whether it was entirely the result of his own speculation; or, what is more probable, that his own ideas rather coincided with the instructions he had received; certain it is, that, with the best intentions in the world, he first brought this fatal scheme into form, and established it by act of parliament.

No man can believe, that at this time of day I mean to lean on the venerable memory of a great man, whose loss we deplore in common. Our little party-differences have been long ago composed; and I have acted more with him, and certainly with more pleasure with him, than ever I acted against him. Undoubtedly Mr. Grenville was a first-rate figure in this country. With a masculine understanding, and a stout and resolute heart, he had an application undissipated and unwearied. He took public business, not as a duty which he was to fulfil, but as a pleasure he was to enjoy; and he seemed to have no delight out of this house, except in such things as some way related to the business that was to be done within it. If he was ambitious, I will say this for him, his ambition was of a noble and generous strain. It was to raise himself, not by the low pimping politics of a court, but to win his way to power, through the laborious gradations of public service; and to secure himself a well-earned rank in parliament, by a thorough knowledge of its constitution, and a perfect practice in all its business.

Sir, if such a man fell into errors, it must be from defects not intrinsical; they must be rather sought in the particular habits of his life; which, though they do not alter the groundwork of character, yet tinge it with their own hue. He was bred in a profession. He was bred to the law, which is, in my opinion, one of the first and noblest of human sciences; a science which does more to quicken and invigorate the understanding, than all the other kinds of learning put together; but it is not apt, except in persons very happily born, to open and to liberalize the mind exactly in the same proportion. Passing from that study, he did not go very largely into the world; but

plunged into business; I mean into the business of office; and the limited and fixed methods and forms established there. Much knowledge is to be had undoubtedly in that line; and there is no knowledge which is not valuable. But it may be truly said, that men too much conversant in office, are rarely minds of remarkable enlargement. Their habits of office are apt to give them a turn to think the substance of business not to be much more important than the forms in which it is conducted. These forms are adapted to ordinary occasions; and therefore persons who are nurtured in office, do admirably well, as long as things go on in their common order; but when the high roads are broken up, and the waters out, when a new and troubled scene is opened, and the file affords no precedent, then it is that a greater knowledge of mankind, and a far more extensive comprehension of things, is requisite than ever office gave, or than office can ever give. Mr. Grenville thought better of the wisdom and power of human legislation than in truth it deserves. He conceived, and many conceived along with him, that the flourishing trade of this country was greatly owing to law and institution, and not quite so much to liberty; for but too many are apt to believe regulation to be commerce, and taxes to be revenue. Among regulations, that which stood first in reputation was his idol. I mean the act of navigation. He has often professed it to be so. The policy of that act is, I readily admit, in many respects well understood. But I do say, that if the act be suffered to run the full length of its principle, and is not changed and modified according to the change of times and the fluctuation of circumstances, it must do great mischief, and frequently even defeat its own purpose.

After the war, and in the last years of it, the trade of America had increased far beyond the speculations of the most sanguine imaginations. It swelled out on every side. It filled all its proper channels to the brim. It overflowed with a rich redundance, and breaking its banks on the right and on the left, it spread out upon some places, where it was indeed improper, upon others where it was only irregular. It is the nature of all greatness not to be exact; and great trade will always be attended with considerable abuses. The contraband will always keep pace in some measure with the fair trade. It should stand as a fundamental maxim, that no vulgar precaution ought to be employed in the cure of evils, which are closely connected with the cause of our prosperity. Perhaps this great person turned his eyes somewhat less than was just, towards the incredible increase of the fair trade; and looked with something of too exquisite a jealousy towards the contraband. He certainly felt a singular degree of anxiety on the

subject; and even began to act from that passion earlier than is commonly imagined. For whilst he was first lord of the admiralty, though not strictly called upon in his official line, he presented a very strong memorial to the lords of the treasury, (my Lord Bute was then at the head of the board;) heavily complaining of the growth of the illicit commerce in America. Some mischief happened even at that time from this over-earnest zeal. Much greater happened afterwards, when it operated with greater power in the highest department of the finances. The bonds of the act of navigation were straitened so much, that America was on the point of having no trade, either contraband or legitimate. They found, under the construction and execution then used, the act no longer trying but actually strangling them. All this coming with new enumerations of commodities; with regulations which in a manner put a stop to the mutual coasting intercourse of the colonies; with the appointment of courts of admiralty under various improper circumstances; with a sudden extinction of the paper currencies; with a compulsory provision for the quartering of soldiers; the people of America thought themselves proceeded against as delinquents, or at best as people under suspicion of delinquency; and in such a manner, as they imagined, their recent services in the war did not at all merit. Any of these innumerable regulations, perhaps, would not have alarmed alone; some might be thought reasonable; the multitude struck them with terror.

But the grand manœuvre in that business of new regulating the colonies, was the 15th act of the fourth of George III.; which, besides containing several of the matters to which I have just alluded, opened a new principle: and here properly began the second period of the policy of this country with regard to the colonies; by which the scheme of a regular plantation parliamentary revenue was adopted in theory, and settled in practice. A revenue not substituted in the place of, but superadded to, a monopoly; which monopoly was enforced at the same time with additional strictness, and the execution put into military hands.

This act, Sir, had, for the first time, the title of "granting duties in the colonies and plantations of America;" and for the first time, it was asserted in the preamble, "that it was *just* and *necessary* that a revenue should be raised there." Then came the technical words of "giving and granting," and thus a complete American revenue act was made in all the forms, and with a full avowal of the right, equity, policy, and even necessity of taxing the colonies, without any formal consent of theirs. There are contained also in the preamble

to that act these very remarkable words—the commons, &c. —"being desirous to make *some* provision in the *present* session of parliament *towards* raising the said revenue." By these words it appeared to the colonies, that this act was but a beginning of sorrows; that every session was to produce something of the same kind; that we were to go on from day to day, in charging them with such taxes as we pleased, for such a military force as we should think proper. Had this plan been pursued, it was evident that the provincial assemblies, in which the Americans felt all their portion of importance, and beheld their sole image of freedom, were *ipso facto* annihilated. This ill prospect before them seemed to be boundless in extent, and endless in duration. Sir, they were not mistaken. The ministry valued themselves when this act passed, and when they gave notice of the stamp act, that both of the duties came very short of their ideas of American taxation. Great was the applause of this measure here. In England we cried out for new taxes on America, whilst they cried out that they were nearly crushed with those which the war and their own grants had brought upon them.

Sir, it has been said in the debate, that when the first American revenue act (the act of 1764, imposing the port duties) passed, the Americans did not object to the principle. It is true, they touched it but very tenderly. It was not a direct attack. They were, it is true, as yet novices; as yet unaccustomed to direct attacks upon any of the rights of parliament. The duties were port duties, like those they had been accustomed to bear; with this difference, that the title was not the same, the preamble not the same, and the spirit altogether unlike. But of what service is this observation to the cause of those that make it? It is a full refutation of the pretence for their present cruelty to America; for it shows, out of their own mouths, that our colonies were backward to enter into the present vexatious and ruinous controversy.

There is also another circulation abroad, (spread with a malignant intention, which I cannot attribute to those who say the same thing in this house) that Mr. Grenville gave the colony agents an option for their assemblies to tax themselves, which they had refused. I find that much stress is laid on this, as a fact. However, it happens neither to be true nor possible. I will observe first, that Mr. Grenville never thought fit to make this apology for himself in the innumerable debates that were had upon the subject. He might have proposed to the colony agents, that they should agree in some mode of taxation as the ground of an act of parliament. But he never could have proposed that they should tax themselves on requi-

sition, which is the assertion of the day. Indeed, Mr. Grenville well knew, that the colony agents could have no general powers to consent to it; and they had no time to consult their assemblies for particular powers, before he passed his first revenue act. If you compare dates, you will find it impossible. Burthened as the agents knew the colonies were at that time, they could not give the least hope of such grants. His own favorite governor was of opinion that the Americans were not then taxable objects:

"*Nor was the time less favorable to the* equity *of such a taxation. I don't mean to dispute the reasonableness of America contributing to the charges of Great Britain* when she is able; *nor, I believe, would the Americans themselves have disputed it, at a* proper time and season. *But it should be considered, that the American governments themselves have, in the prosecution of the late war, contracted very large debts; which it will take some years to pay off, and in the mean time occasion very* burdensome taxes for that purpose *only. For instance, this government, which is as much beforehand as any, raises every year* £37,500 *sterling for sinking their debt, and must continue it for four years longer at least before it will be clear.*"

These are the words of Governor Bernard's letter to a member of the old ministry, and which he has since printed. Mr. Grenville could not have made this proposition to the agents, for another reason. He was of opinion, which he has declared in this house an hundred times, that the colonies could not legally grant any revenue to the crown; and that infinite mischiefs would be the consequence of such a power. When Mr. Grenville had passed the first revenue act, and in the same session had made this house come to a resolution for laying a stamp-duty on America, between that time and the passing the stamp act into a law, he told a considerable and most respectable merchant, a member of this house, whom I am truly sorry I do not now see in his place, when he represented against this proceeding, that if the stamp-duty was disliked, he was willing to exchange it for any other equally productive; but that, if he objected to the Americans being taxed by parliament, he might save himself the trouble of the discussion, as he was determined on the measure. This is the fact, and, if you please, I will mention a very unquestionable authority for it.

Thus, Sir, I have disposed of this falsehood. But falsehood has a perennial spring. It is said, that no conjecture could be made of the dislike of the colonies to the principle. This is as untrue as the other. After the resolution of the house, and before the passing of the stamp act, the colonies of Massachusetts Bay and New York did send remonstrances, objecting to

this mode of parliamentary taxation. What was the consequence? They were suppressed: they were put under the table; notwithstanding an order of council to the contrary, by the ministry which composed the very council that had made the order; and thus the house proceeded to its business of taxing without the least regular knowledge of the objections which were made to it. But to give that house its due, it was not over-desirous to receive information, or to hear remonstrance. On the 15th of February 1765, whilst the stamp act was under deliberation, they refused with scorn even so much as to receive four petitions presented from so respectable colonies as Connecticut, Rhode Island, Virginia, and Carolina; besides one from the traders of Jamaica. As to the colonies, they had no alternative left to them, but to disobey; or to pay the taxes imposed by that parliament which was not suffered, or did not suffer itself, even to hear them remonstrate upon the subject.

This was the state of the colonies before his majesty thought fit to change his ministers. It stands upon no authority of mine. It is proved by uncontrovertible records. The honorable gentleman has desired some of us to lay our hands upon our hearts, and answer to his queries upon the historical part of this consideration; and by his manner (as well as my eyes could discern it) he seemed to address himself to me.

Sir, I will answer him as clearly as I am able, and with great openness; I have nothing to conceal. In the year sixty-five, being in a very private station, far enough from any line of business, and not having the honor of a seat in this house, it was my fortune, unknowing and unknown to the then ministry, by the intervention of a common friend, to become connected with a very noble person, and at the head of the treasury department. It was indeed in a situation of little rank and no consequence, suitable to the mediocrity of my talents and pretensions. But a situation near enough to enable me to see, as well as others, what was going on; and I did see in that noble person such sound principle, such an enlargement of mind, such clear and sagacious sense, and such unshaken fortitude, as have bound me, as well as others much better than me, by an inviola ble attachment to him from that time forward. Sir, lord Rockingham very early in that summer received a strong representation from many weighty English merchants and manufacturers, from governors of provinces and commanders of men of war, against almost the whole of the American commercial regulation, and particularly with regard to the total ruin which was threatened to the Spanish trade. I believe, Sir, the noble lord soon saw his way in this business. But he did not rashly determine against acts which it might be supposed were the

result of much deliberation. However, Sir, he scarcely began to open the ground, when the whole veteran body of office took the alarm. A violent outcry of all (except those who knew and felt the mischief) was raised against any alteration. On one hand, his attempt was a direct violation of treaties and public law.—On the other, the act of navigation and all the corps of trade laws were drawn up in array against it.

The first step the noble lord took, was to have the opinion of his excellent, learned, and ever-lamented friend the late Mr. Yorke, then attorney-general, on the point of law. When he knew that formally and officially, which in substance he had known before, he immediately dispatched orders to redress the grievance. But I will say it for the then minister, he is of that constitution of mind, that I know he would have issued, on the same critical occasion, the very same orders, if the acts of trade had been, as they were not, directly against him; and would have cheerfully submitted to the equity of parliament for his indemnity.

On the conclusion of this business of the Spanish trade, the news of the troubles, on account of the stamp act, arrived in England. It was not until the end of October that these accounts were received. No sooner had the sound of that mighty tempest reached us in England, than the whole of the then opposition, instead of feeling humbled by the unhappy issue of their measures, seemed to be infinitely elated, and cried out, that the ministry, from envy to the glory of their predecessors, were prepared to repeal the stamp act. Near nine years after, the honorable gentleman takes quite opposite ground, and now challenges me to put my hand to my heart, and say, whether the ministry had resolved on the repeal till a considerable time after the meeting of parliament. Though I do not very well know what the honorable gentleman wishes to infer from the admission, or from the denial, of this fact, on which he so earnestly adjures me; I do put my hand on my heart, and assure him, that they did *not* come to a resolution directly to repeal. They weighed this matter as its difficulty and importance required. They considered maturely among themselves. They consulted with all who could give advice or information. It was not determined until a little before the meeting of parliament; but it was determined, and the main lines of their own plan marked out, before that meeting. Two questions arose (I hope I am not going into a narrative troublesome to the house.)

[A cry of, go on, go on,]

The first of the two considerations was, whether the repeal should be total, or whether only partial; taking out everything

burthensome and productive, and reserving only an empty acknowledgment, such as a stamp on cards or dice. The other question was, on what principle the act should be repealed? On this head also two principles were started. One, that the legislative rights of this country, with regard to America, were not entire, but had certain restrictions and limitations. The other principle was, that taxes of this kind were contrary to the fundamental principles of commerce on which the colonies were founded; and contrary to every idea of political equity; by which equity we are bound, as much as possible, to extend the spirit and benefit of the British constitution to every part of the British dominions. The option, both of the measure and of the principle of repeal, was made before the session, and I wonder how any one can read the king's speech at the opening of that session, without seeing in that speech both the repeal and the declaratory act very sufficiently crayoned out. Those who cannot see this can see nothing.

Surely the honorable gentleman will not think that a great deal less time than was then employed, ought to have been spent in deliberation; when he considers that the news of the troubles did not arrive till towards the end of October. The parliament sat to fill the vacancies on the 14th day of December, and on business the 14th of the following January.

Sir, a partial repeal, or, as the *bon ton* of the court then was, a *modification*, would have satisfied a timid, unsystematic, procrastinating ministry, as such a measure has since done such a ministry. A modification is the constant resource of weak undeciding minds. To repeal by a denial of our right to tax in the preamble (and this too did not want advisers,) would have cut, in the heroic style, the Gordian knot with a sword. Either measure would have cost no more than a day's debate. But when the total repeal was adopted on principles of policy, of equity, and of commerce; this plan made it necessary to enter into many and difficult measures. It became necessary to open a very large field of evidence commensurate to these extensive views. But then this labor did knight's service. It opened the eyes of several to the true state of the American affairs; it enlarged their ideas; it removed prejudices; and it conciliated the opinions and affections of men. The noble lord, who then took the lead in administration, my honorable friend under me, and a right honorable gentleman (if he will not reject his share, and it was a large one, of this business) exerted the most laudable industry in bringing before you the fullest, most impartial, and least-garbled body of evidence that ever was produced to this house. I think the inquiry lasted in the committee for six weeks; and at its con

clusion this house, by an independent, noble, spirited, and unexpected majority; by a majority that will redeem all the acts ever done by majorities in parliament; in the teeth of all the old mercenary Swiss of state, in despite of all the speculators and augurs of political events, in defiance of the whole embattled legion of veteran pensioners and practised instruments of a court, gave a total repeal to the stamp act, and (if it had been so permitted) a lasting peace to this whole empire.

I state, Sir, these particulars, because this act of spirit and fortitude has lately been, in the circulation of the season, and in some hazarded declamations in this house, attributed to timidity. If, Sir, the conduct of ministry, in proposing the repeal, had arisen from timidity with regard to themselves, it would have been greatly to be condemned. Interested timidity disgraces as much in the cabinet, as personal timidity does in the field. But timidity, with regard to the well-being of our country, is heroic virtue. The noble lord who then conducted affairs, and his worthy colleagues, whilst they trembled at the prospect of such distresses as you have since brought upon yourselves, were not afraid steadily to look in the face that glaring and dazzling influence at which the eyes of eagles have blenched. He looked in the face one of the ablest, and, let me say, not the most scrupulous oppositions, that perhaps ever was in this house, and withstood it, unaided by, even one of the usual supports of administration. He did this when he repealed the stamp act. He looked in the face a person he had long respected and regarded, and whose aid was then particularly wanting; I mean lord Chatham. He did this when he passed the declaratory act.

It is now given out for the usual purposes, by the usual emissaries, that lord Rockingham did not consent to the repeal of this act until he was bullied into it by lord Chatham; and the reporters have gone so far as publicly to assert, in a hundred companies, that the honorable gentleman under the gallery, who proposed the repeal in the American committee, had another set of resolutions in his pocket directly the reverse of those he moved. These artifices of a desperate cause are, at this time, spread abroad, with incredible care, in every part of the town, from the highest to the lowest companies; as if the industry of the circulation were to make amends for the absurdity of the report.

Sir, whether the noble lord is of a complexion to be bullied by lord Chatham, or by any man, I must submit to those who know him. I confess, when I look back to that time, I consider him as placed in one of the most trying situations in

which, perhaps, any man ever stood. In the house of peers there were very few of the ministry, out of the noble lord's own particular connexion, (except lord Egmont, who acted, as far as I could discern, an honorable and manly part,) that did not look to some other future arrangement, which warped his politics. There were in both houses new and menacing appearances, that might very naturally drive any other, than a most resolute minister, from his measure or from his station. The household troops openly revolted. The allies of ministry (those, I mean, who supported some of their measures, but refused responsibility for any) endeavored to undermine their credit, and to take ground that must be fatal to the success of the very cause which they would be thought to countenance. The question of the repeal was brought on by ministry in the committee of this house, in the very instant when it was known that more than one court negotiation was carrying on with the heads of the opposition. Everything, upon every side, was full of traps and mines. Earth below shook; heaven above menaced; all the elements of ministerial safety were dissolved. It was in the midst of this chaos of plots and counter-plots; it was in the midst of this complicated warfare against public opposition and private treachery, that the firmness of that noble person was put to the proof. He never stirred from his ground; no, not an inch. He remained fixed and determined, in principle, in measure, and in conduct. He practised no managements. He secured no retreat. He sought no apology.

I will likewise do justice, I ought to do it, to the honorable gentleman who led us in this house. Far from the duplicity wickedly charged on him, he acted his part with alacrity and resolution. We all felt inspired by the example he gave us, down even to myself, the weakest in that phalanx. I declare for one, I knew well enough (it could not be concealed from anybody) the true state of things; but, in my life, I never came with so much spirits into this house. It was a time for a *man* to act in. We had powerful enemies; but we had faithful and determined friends; and a glorious cause. We had a great battle to fight; but we had the means of fighting; not as now, when our arms are tied behind us. We did fight that day, and conquer.

I remember. Sir, with a melancholy pleasure, the situation of the honorable gentleman who made the motion for the repeal; in that crisis, when the whole trading interest of this empire, crammed into your lobbies, with a trembling and anxious expectation, waited, almost to a winter's return of light, their fate from your resolutions. When, at length you had

determined in their favor, and your doors, thrown open, showed them the figure of their deliverer in the well-earned triumph of his important victory, from the whole of that grave multitude there arose an involuntary burst of gratitude and transport. They jumped upon him like children on a long-absent father. They clung about him as captives about their redeemer. All England, all America, joined to his applause. Nor did he seem insensible to the best of all earthly rewards, the love and admiration of his fellow-citizens. *Hope elevated and joy brightened his crest.* I stood near him; and his face, to use the expression of the scripture of the first martyr, "his face was as if it had been the face of an angel." I do not know how others feel; but if I had stood in that situation, I never would have exchanged it for all that kings in their profusion could bestow. I did hope that that day's danger and honor would have been a bond to hold us all together for ever. But, alas! that, with other pleasing visions, is long since vanished.

Sir, this act of supreme magnanimity has been represented, as if it had been a measure of an administration, that, having no scheme of their own, took a middle line, pilfered a bit from one side and a bit from the other. Sir, they took *no* middle line. They differed fundamentally from the schemes of both parties; but they preserved the objects of both. They preserved the authority of Great Britain. They preserved the equity of Great Britain. They made the declaratory act; they repealed the stamp act. They did both *fully;* because the declaratory act was *without qualification;* and the repeal of the stamp-act *total.* This they did in the situation I have described.

Now, Sir, what will the adversary say to both these acts? If the principle of the declaratory act was not good, the principle we are contending for this day is monstrous. If the principle of the repeal was not good, why are we not at war for a real, substantial, effective revenue? If both were bad, why has this ministry incurred all the inconveniences of both and of all schemes? Why have they enacted, repealed, enforced, yielded, and now attempt to enforce again?

Sir, I think I may as well now, as at any other time, speak to a certain matter of fact, not wholly unrelated to the question under your consideration. We, who would persuade you to revert to the ancient policy of this kingdom, labor under the effect of this short current phrase, which the court leaders have given out to all their corps, in order to take away the credit of those who would prevent you from that frantic war you are going to wage upon your colonies. Their cant is this: "Al.

the disturbances in America have been created by the repeal of the stamp act." I suppress for a moment my indignation at the falsehood, baseness, and absurdity of this most audacious assertion. Instead of remarking on the motives and character of those who have issued it for circulation, I will clearly lay before you the state of America, antecedently to that repeal; after the repeal; and since the renewal of the schemes of American taxation.

It is said, that the disturbances, if there were any, before the repeal, were slight; and without difficulty or inconvenience might have been suppressed. For an answer to this assertion I will send you to the great author and patron of the stamp act, who certainly meaning well to the authority of this country, and fully apprized of the state of that, made, before a repeal was so much as agitated in this house, the motion which is on your journals; and which, to save the clerk the trouble of turning to it, I will now read to you. It was for an amendment to the address of the 17th of December, 1765:

"*To express our just resentment and indignation at the* outrageous tumults and insurrections *which have been excited and carried on in North America; and at the resistance given by* open *and* rebellious *force, to the execution of the laws in that part of his majesty's dominions. And to assure his majesty, that his faithful commons, animated with the warmest duty and attachment to his royal person and government, will firmly and effectually support his majesty in all such measures as shall be necessary for preserving and supporting the legal dependence of the colonies on the mother country,* &c. &c.

Here was certainly a disturbance preceding the repeal; such a disturbance as Mr. Grenville thought necessary to qualify by the name of an *insurrection,* and the epithet of a *rebellious* force: terms much stronger than any, by which, those who then supported this motion, have ever since thought proper to distinguish the subsequent disturbances in America. They were disturbances which seemed to him and his friends to justify as strong a promise of support, as hath been usual to give in the beginning of a war with the most powerful and declared enemies. When the accounts of the American governors came before the house, they appeared stronger even than the warmth of public imagination had painted them; so much stronger, that the papers on your table bear me out in saying, that all the late disturbances, which have been at one time the minister's motives for the repeal of five out of six of the new court taxes, and are now his pretences for refusing to repeal that sixth, did not amount—why do I compare them? no, not to a

tenth part of the tumults and violence which prevailed long before the repeal of that act.

Ministry cannot refuse the authority of the commander in chief, general Gage, who, in his letter of the 4th of November, from New York, thus represents the state of things:

"*It is difficult to say, from the* highest to the lowest, *who has not been* accessary *to this* insurrection, *either by writing or* mutual agreements *to oppose the act, by what they are pleased to term all legal opposition to it. Nothing effectual has been proposed, either to prevent or quell the tumult.* The rest of the provinces are in the same situation *as to a positive refusal to take the stamps; and threatening those who shall take them,* to plunder and murder them; *and this affair stands* in all the provinces, *that unless the act, from its own nature, enforce itself, nothing but a very considerable military force can do it.*"

It is remarkable, Sir, that the persons who formerly trumpeted forth the most loudly, the violent resolutions of assemblies; the universal insurrections; the seizing and burning the stamped papers; the forcing the stamp officers to resign their commissions under the gallows; the rifling and pulling down the houses of magistrates; and the expulsion from their country of all who dared to write or speak a single word in defence of the powers of parliament; these very trumpeters are now the men that represent the whole as a mere trifle; and choose to date all the disturbances from the repeal of the stamp act, which put an end to them. Hear your officers abroad, and let them refute this shameless falsehood, who, in all their correspondence, state the disturbances as owing to their true causes, the discontent of the people, from the taxes. You have this evidence in your own archives—and it will give you complete satisfaction; if you are not so far lost to all parliamentary ideas of information, as rather to credit the lie of the day, than the records of your own house.

Sir, this vermin of court reporters, when they are forced into day upon one point, are sure to burrow in another; but they shall have no refuge; I will make them bolt out of all their holes. Conscious that they must be baffled, when they attribute a precedent disturbance to a subsequent measure, they take the other ground, almost as absurd, but very common in modern practice, and very wicked; which is, to attribute the ill effect of ill-judged conduct to the arguments which had been used to dissuade us from it. They say, that the opposition made in parliament to the stamp act at the time of its passing, encouraged the Americans to their resistance. This has even formally appeared in print in a regular volume, from an advocate of that faction, a Dr. Tucker. This Dr. Tucker is already a dean

and his earnest labors in this vineyard will, I suppose, raise him to a bishopric. But this assertion too, just like the rest, is false. In all the papers which have loaded your table; in all the vast crowd of verbal witnesses that appeared at your bar, witnesses which were indiscriminately produced from both sides of the house; not the least hint of such a cause of disturbance has appeared. As to the fact of a strenuous opposition to the stamp act, I sat as a stranger in your gallery when the act was under consideration. Far from anything inflammatory, I never heard a more languid debate in this house. No more than two or three gentlemen, as I remember, spoke against the act, and that with great reserve and remarkable temper. There was but one division in the whole progress of the bill; and the minority did not reach to more than 39 or 40. In the house of lords I do not recollect that there was any debate or division at all. I am sure there was no protest. In fact, the affair passed with so very, very little noise, that in town they scarcely knew the nature of what you were doing. The opposition to the bill in England never could have done this mischief, because there scarcely ever was less of opposition to a bill of consequence.

Sir, the agents and distributors of falsehoods have, with their usual industry, circulated another lie of the same nature with the former. It is this, that the disturbances arose from the account which had been received in America of the change in the ministry. No longer awed, it seems, with the spirit of the former rulers, they thought themselves a match for what our calumniators choose to qualify by the name of so feeble a ministry as succeeded. Feeble in one sense these men certainly may be called; for with all their efforts, and they have made many, they have not been able to resist the distempered vigor and insane alacrity with which you are rushing to your ruin But it does so happen, that the falsity of this circulation is (like the rest) demonstrated by indisputable dates and records.

So little was the change known in America, that the letters of your governors, giving an account of these disturbances long after they had arrived at their highest pitch, were all directed to the *old ministry*, and particularly to the *earl of Halifax*, the secretary of state corresponding with the colonies, without once in the smallest degree intimating the slightest suspicion of any ministerial revolution whatsoever. The ministry was not changed in England until the 10th day of July, 1765. On the 14th of the preceding June, governor Fauquier from Virginia writes thus; and writes thus to the earl of Halifax: "*Government is set at* defiance, *not having strength enough in their hands to enforce obedience to the laws of the community. The*

private distress, which every man feels, increases the general dissatisfaction *at the duties laid by the* stamp act, *which breaks out, and shows itself upon every trifling occasion.*" The general dissatisfaction had produced, some time before, that is, on the 29th of May, several strong public resolves against the stamp act; and those resolves are assigned by governor Bernard, as the cause of the *insurrections* in Massachusetts Bay, in his letter of the 15th of August, still addressed to the earl of Halifax; and he continued to address such accounts to that minister quite to the 7th of September of the same year. Similar accounts, and of as late a date, were sent from other governors, and all directed to lord Halifax. Not one of these letters indicates the slightest idea of a change, either known, or even apprehended.

Thus are blown away the insect race of courtly falsehoods! thus perish the miserable inventions of the wretched runners for a wretched cause, which they have fly-blown into every weak and rotten part of the country, in vain hopes that when their maggots had taken wing, their importunate buzzing might sound something like the public voice!

Sir, I have troubled you sufficiently with the state of America before the repeal. Now I turn to the honorable gentleman who so stoutly challenges us, to tell, whether, after the repeal, the provinces were quiet? This is coming home to the point. Here I meet him directly; and answer most readily, *They were quiet.* And I, in my turn, challenge him to prove when, and where, and by whom, and in what numbers, and with what violence, the other laws of trade, as gentlemen assert, were violated in consequence of your concession? or that even your other revenue laws were attacked? But I quit the vantage-ground on which I stand, and where I might leave the burthen of the proof upon him: I walk down upon the open plain, and undertake to show, that they were not only quiet, but showed many unequivocal marks of acknowledgment and gratitude. And to give him every advantage, I select the obnoxious colony of Massachusetts Bay, which at this time (but without hearing her) is so heavily a culprit before parliament—I will select their proceedings even under circumstances of no small irritation. For, a little imprudently, I must say, governor Bernard mixed in the administration of the lenitive of the repeal no small acrimony arising from matters of a separate nature. Yet see, Sir, the effect of that lenitive, though mixed with these bitter ingredients; and how this rugged people can express themselves on a measure of concession.

"*If it is not in our power,*" (say they in their address to governor Bernard) "*in so full a manner as will be expected to*

show our respectful gratitude to the mother country, or to make a dutiful and affectionate return to the indulgence of the king and parliament, it shall be no fault of ours; for this we intend, and hope we shall be able fully to effect."

Would to God that this temper had been cultivated, managed, and set in action! other effects than those which we have since felt would have resulted from it. On the requisition for compensation to those who had suffered from the violence of the populace, in the same address they say, "*The recommendation enjoined by Mr. Secretary Conway's letter, and in consequence thereof made to us, we will embrace the first convenient opportunity to consider and act upon.*" They did consider; they did act upon it. They obeyed the requisition. I know the mode has been chicaned upon; but it was substantially obeyed; and much better obeyed, than I fear the parliamentary requisition of this session will be, though enforced by all your rigor, and backed with all your power. In a word, the damages of popular fury were compensated by legislative gravity. Almost every other part of America in various ways demonstrated their gratitude. I am bold to say, that so sudden a calm recovered after so violent a storm is without parallel in history. To say that no other disturbance should happen from any other cause, is folly. But as far as appearances went, by the judicious sacrifice of one law, you procured an acquiescence in all that remained. After this experience, nobody shall persuade me, when a whole people are concerned, that acts of lenity are not means of conciliation.

I hope the honorable gentleman has received a fair and full answer to his question.

I have done with the third period of your policy; that of your repeal; and the return of your ancient system, and your ancient tranquillity and concord. Sir, this period was not as long as it was happy. Another scene was opened, and other actors appeared on the stage. The state, in the condition I have described it, was delivered into the hands of Lord Chatham —a great and celebrated name; a name that keeps the name of this country respectable in every other on the globe. It may be truly called,

> Clarum et venerabile nomen
> Gentibus, et multum nostræ quod proderat urbi.

Sir, the venerable age of this great man, his merited rank, his superior eloquence, his splendid qualities, his eminent services, the vast space he fills in the eye of mankind; and, more than all the rest, his fall from power, which, like death, canonizes and sanctifies a great character, will not suffer me to censure any part of his conduct. I am afraid to flatter him; I am sure

I am not disposed to blame him. Let those who have betrayed him by their adulation, insult him with their malevolence. But what I do not presume to censure, I may have leave to lament. For a wise man, he seemed to me, at that time, to be governed too much by general maxims. I speak with the freedom of history, and I hope without offence. One or two of these maxims, flowing from an opinion not the most indulgent to our unhappy species, and surely a little too general, led him into measures that were greatly mischievous to himself; and for that reason, among others, perhaps fatal to his country; measures, the effects of which, I am afraid, are for ever incurable. He made an administration, so checkered and speckled; he put together a piece of joinery, so crossly indented and whimsically dove-tailed; a cabinet so variously inlaid; such a piece of diversified Mosaic; such a tesselated pavement without cement; here a bit of black stone, and there a bit of white; patriots and courtiers, king's friends and republicans; whigs and tories; treacherous friends and open enemies: that it was indeed a very curious show; but utterly unsafe to touch, and unsure to stand on. The colleagues whom he had assorted at the same boards, stared at each other, and were obliged to ask, "Sir, your name?—Sir, you have the advantage of me—Mr. Such-a-one—I beg a thousand pardons—" I venture to say, it did so happen, that persons had a single office divided between them, who had never spoke to each other in their lives; until they found themselves, they knew not how, pigging together, heads and points, in the same truckle-bed.

Sir, in consequence of this arrangement, having put so much the larger part of his enemies and opposers into power, the confusion was such, that his own principles could not possibly have any effect or influence in the conduct of affairs. If ever he fell into a fit of the gout, or if any other cause withdrew him from public cares, principles directly the contrary were sure to predominate. When he had executed his plan, he had not an inch of ground to stand upon. When he had accomplished his scheme of administration, he was no longer a minister.

When his face was hid but for a moment, his whole system was on a wide sea, without chart or compass. The gentlemen, his particular friends, who, with the names of various departments of ministry, were admitted, to seem, as if they acted a part under him, with a modesty that becomes all men, and with a confidence in him, which was justified even in its extravagance by his superior abilities, had never, in any instance, presumed upon any opinion of their own. Deprived of his guiding influence, they were whirled about, the spo

of every gust, and easily driven into any port; and as those who joined with them in manning the vessel were the most directly opposite to his opinions, measures, and character, and far the most artful and most powerful of the set, they easily prevailed, so as to seize upon the vacant, unoccupied, and derelict minds of his friends; and instantly they turned the vessel wholly out of the course of his policy. As if it were to insult as well as to betray him, even long before the close of the first session of his administration, when everything was publicly transacted, and with great parade, in his name, they made an act, declaring it highly just and expedient to raise a revenue in America. For even then, Sir, even before the splendid orb was entirely set, and while the western horizon was in a blaze with his descending glory, on the opposite quarter of the heavens arose another luminary, and, for his hour, became lord of the ascendant.

This light too is passed and set for ever. You understand, to be sure, that I speak of Charles Townshend, officially the reproducer of this fatal scheme; whom I cannot even now remember without some degree of sensibility. In truth, Sir, he was the delight and ornament of this house, and the charm of every private society which he honored with his presence. Perhaps there never arose in this country, nor in any country, a man of a more pointed and finished wit: and (where his passions were not concerned) of a more refined, exquisite, and penetrating judgment. If he had not so great a stock, as some have had who flourished formerly, of knowledge long treasured up, he knew better by far, than any man I ever was acquainted with, how to bring together, within a short time, all that was necessary to establish, to illustrate, and to decorate that side of the question he supported. He stated his matter skilfully and powerfully. He particularly excelled in a most luminous explanation, and display of his subject. His style of argument was neither trite and vulgar, nor subtle and abstruse. He hit the house just between wind and water. And not being troubled with too anxious a zeal for any matter in question, he was never more tedious, or more earnest, than the preconceived opinions and present temper of his hearers required; to whom he was always in perfect unison. He conformed exactly to the temper of the house; and he seemed to guide, because he was always sure to follow it.

I beg pardon, Sir, if, when I speak of this and of other great men, I appear to digress in saying something of their characters. In this eventful history of the revolutions of America, the characters of such men are of much importance Great men are the guide-posts and land-marks in the state.

The credit of such men at court, or in the nation, is the sole cause of all the public measures. It would be an invidious thing (most foreign, I trust, to what you think my disposition) to remark the errors into which the authority of great names has brought the nation, without doing justice at the same time to the great qualities, whence that authority arose. The subject is instructive to those who wish to form themselves on whatever of excellence has gone before them. There are many young members in the house (such of late has been the rapid succession of public men) who never saw that prodigy, Charles Townshend; nor of course know what a ferment he was able to excite in everything by the violent ebullition of his mixed virtues and failings. For failings he had, undoubtedly—many of us remember them; we are this day considering the effect of them. But he had no failings which were not owing to a noble cause; to an ardent, generous, perhaps an immoderate passion for fame; a passion which is the instinct of all great souls. He worshipped that goddess wheresoever she appeared; but he paid his particular devotions to her in her favorite habitation, in her chosen temple, the house of commons. Besides the characters of the individuals that compose our body, it is impossible, Mr. Speaker, not to observe, that this house has a collective character of its own. That character too, however imperfect, is not unamiable. Like all great public collections of men, you possess a marked love of virtue, and an abhorrence of vice. But among vices, there is none, which the house abhors in the same degree with *obstinacy*. Obstinacy, Sir, is certainly a great vice; and in the changeful state of political affairs, it is frequently the cause of great mischief. It happens, however, very unfortunately, that almost the whole line of the great and masculine virtues, constancy, gravity, magnanimity, fortitude, fidelity, and firmness, are closely allied to this disagreeable quality, of which you have so just an abhorrence; and in their excess, all these virtues very easily fall into it. He, who paid such a punctilious attention to all your feelings, certainly took care not to shock them by that vice which is the most disgustful to you.

That fear of displeasing those who ought most to be pleased, betrayed him sometimes into the other extreme. He had voted, and in the year 1765, had been an advocate for the stamp act. Things and the disposition of men's minds were changed. In short, the stamp act began to be no favorite in this house. He therefore attended at the private meeting, in which the resolutions moved by a right honorable gentleman were settled: resolutions leading to the repeal. The next day he voted for that repeal; and he would have spoken for it too, if an illness,

(not as was then given out, a political) but to my knowledge, a very real illness, had not prevented it.

The very next session, as the fashion of this world passeth away, the repeal began to be in as bad an odor in this house as the stamp act had been in the session before. To conform to the temper which began to prevail, and to prevail mostly amongst those most in power, he declared, very early in the winter, that a revenue must be had out of America. Instantly he was tied down to his engagements by some, who had no objection to such experiments, when made at the cost of persons for whom they had no particular regard. The whole body of courtiers drove him onward. They always talked as if the king stood in a sort of humiliated state, until something of the kind should be done.

Here this extraordinary man, then chancellor of the exchequer, found himself in great straits. To please universally was the object of his life; but to tax and to please, no more than to love and to be wise, is not given to men. However he attempted it. To render the tax palatable to the partisans of American revenue, he made a preamble stating the necessity of such a revenue. To close with the American distinction, this revenue was *external* or port-duty; but again, to soften it to the other party, it was a duty of *supply*. To gratify the *colonists*, it was laid on British manufactures: to satisfy the *merchants of Britain*, the duty was trivial, and (except that on tea, which touched only the devoted East India company) on none of the grand objects of commerce. To counterwork the American contraband, the duty on tea was reduced from a shilling to three-pence. But to secure the favor of those who would tax America, the scene of collection was changed, and, with the rest, it was levied in the colonies. What need I say more? This finespun scheme had the usual fate of all exquisite policy. But the original plan of the duties, and the mode of executing that plan, both arose singly and solely from a love of our applause. He was truly the child of the house. He never thought, did, or said anything, but with a view to you. He every day adapted himself to your disposition; and adjusted himself before it as at a looking-glass.

He had observed (indeed it could not escape him) that several persons, infinitely his inferiors in all respects, had formerly rendered themselves considerable in this house by one method alone. They were a race of men (I hope in God the species is extinct), who, when they rose in their place, no man living could divine, from any known adherence to parties, to opinions, or to principles; from any order or system in their politics; or from any sequel or connexion in their ideas, what part the

were going to take in any debate. It is astonishing how much this uncertainty, especially at critical times, called the attention of all parties on such men. All eyes were fixed on them, all ears open to hear them; each party gaped, and looked alternately for their vote, almost to the end of their speeches. While the house hung in this uncertainty, now the *hear-hims* rose from this side—now they rebellowed from the other; and that party to whom they fell at length from their tremulous and dancing balance, always received them in a tempest of applause. The fortune of such men was a temptation too great to be resisted by one, to whom, a single whiff of incense withheld gave much greater pain, than he received delight, in the clouds of it, which daily rose about him from the prodigal superstition of innumerable admirers. He was a candidate for contradictory honors; and his great aim was to make those agree in admiration of him who never agreed in anything else.

Hence arose this unfortunate act, the subject of this day's debate; from a disposition which, after making an American revenue to please one, repealed it to please others, and again revived it in hopes of pleasing a third, and of catching something in the ideas of all.

This revenue act of 1767, formed the fourth period of American policy. How we have fared since then—what woful variety of schemes have been adopted; what enforcing, and what repealing; what bullying, and what submitting; what doing, and undoing; what straining, and what relaxing; what assemblies dissolved for not obeying, and called again without obedience; what troops sent out to quell resistance, and on meeting that resistance, recalled; what shiftings, and changes, and jumblings of all kinds of men at home, which left no possibility of order, consistency, vigor, or even so much as a decent unity of color in any one public measure!—It is a tedious, irksome task. My duty may call me to open it out some other time; on a former occasion I tried your temper on a part of it; for the present I shall forbear.

After all these changes and agitations, your immediate situation upon the question on your paper is at length brought to this. You have an act of parliament, stating, that, "it is *expedient* to raise a revenue in America." By a partial repeal you annihilated the greatest part of that revenue, which this preamble declares to be so expedient. You have substituted no other in the place of it. A secretary of state has disclaimed, in the king's name, all thoughts of such a substitution in future. The principle of this disclaimer goes to what has been left, as well as what has been repealed. The tax which lingers after its companions, (under a preamble declaring an American

revenue expedient, and for the sole purpose of supporting the theory of that preamble) militates with the assurance authentically conveyed to the colonies; and is an exhaustless source of jealousy and animosity. On this state, which I take to be a fair one; not being able to discern any grounds of honor, advantage, peace, or power, for adhering either to the act or to the preamble, I shall vote for the question which leads to the repeal of both.

If you do not fall in with this motion, then secure something to fight for, consistent in theory and valuable in practice. If you must employ your strength, employ it to uphold you in some honorable right, or some profitable wrong. If you are apprehensive that the concession recommended to you, though proper, should be a means of drawing on you further but unreasonable claims,—why then employ your force in supporting that reasonable concession against those unreasonable demands. You will employ it with more grace; with better effect; and with great probable concurrence of all the quiet and rational people in the provinces; who are now united with, and hurried away by, the violent; having indeed different dispositions, but a common interest. If you apprehend that on a concession you shall be pushed by metaphysical process to the extreme lines, and argued out of your whole authority, my advice is this; when you have recovered your old, your strong, your tenable position, then face about—stop short—do nothing more—reason not at all—oppose the ancient policy and practice of the empire, as a rampart against the speculations of innovators on both sides of the question; and you will stand on great, manly, and sure ground. On this solid basis fix your machines, and they will draw worlds towards you.

Your ministers, in their own and his majesty's name, have already adopted the American distinction of internal and external duties. It is a distinction, whatever merit it may have, that was originally moved by the Americans themselves; and I think they will acquiesce in it, if they are not pushed with too much logic, and too little sense, in all the consequences. That is, if external taxation be understood, as they and you understand it, when you please, to be not a distinction of geography, but of policy; that is, a power for regulating trade, and not for supporting establishments. The distinction, which is as nothing with regard to right, is of most weighty consideration in practice. Recover your old ground, and your old tranquillity—try it—I am persuaded the Americans will compromise with you. When confidence is once restored, the odious and suspicious *summum jus* will perish, of course. The spirit of practicability, of moderation, and mutual convenience, will never call in geomet

nal exactness as the arbitrator of an amicable settlement. Consult and follow your experience. Let not the long story with which I have exercised your patience, prove fruitless to your interests.

For my part, I should choose (if I could have my wish) that the proposition of the honorable gentleman for the repeal, could go to America without the attendance of the penal bills. Alone I could almost answer for its success. I cannot be certain of its reception in the bad company it may keep. In such heterogeneous assortments, the most innocent person will lose the effect of his innocency. Though you should send out this angel of peace, yet you are sending out a destroying angel too; and what would be the effect of the conflict of these two adverse spirits, or which would predominate in the end, is what I dare not say: whether the lenient measures would cause American passion to subside, or the severe would increase its fury—All this is in the hand of Providence; yet now, even now, I should confide in the prevailing virtue, and efficacious operation of lenity, though working in darkness and in chaos, in the midst of all this unnatural and turbid combination. I should hope it might produce order and beauty in the end.

Let us, Sir, embrace some system or other, before we end this session. Do you mean to tax America, and to draw a productive revenue from thence? If you do, speak out: name, fix, ascertain this revenue; settle its quantity; define its objects; provide for its collection; and then fight when you have something to fight for. If you murder—rob; if you kill, take possession: and do not appear in the character of madmen, as well as assassins, violent, vindictive, bloody, and tyrannical, without an object. But may better counsels guide you!

Again, and again, revert to your old principles—seek peace and ensue it—leave America, if she has taxable matter in her, to tax herself. I am not here going into the distinctions of rights, nor attempting to mark their boundaries. I do not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born of our unhappy contest, will die along with it. They and we, and their and our ancestors, have been happy under that system. Let the memory of all actions in contradiction to that good old mode, on both sides, be extinguished for ever. Be content to bind America by laws of trade; you have always done it. Let this be your reason for binding their trade. Do not burthen them by taxes; you were not used to do so from the beginning. Let this be your reason for not taxing. These are the arguments of states and kingdoms. Leave the rest to the schools; for there only they may be dis

cussed with safety. But if, intemperately, unwisely, fatally you sophisticate and poison the very source of government, by urging subtle deductions, and consequences odious to those you govern, from the unlimited and illimitable nature of supreme sovereignty, you will teach them by these means to call that sovereignty itself in question. When you drive him hard, the boar will surely turn upon the hunters. If that sovereignty and their freedom cannot be reconciled, which will they take? They will cast your sovereignty in your face. Nobody will be argued into slavery. Sir, let the gentlemen on the other side call forth all their ability; let the best of them get up, and tell me, what one character of liberty the Americans have, and what one brand of slavery they are free from, if they are bound, in their property and industry, by all the restraints you can imagine on commerce, and at the same time are made packhorses of every tax you choose to impose, without the least share in granting them. When they bear the burthens of unlimited monopoly, will you bring them to bear the burthens of unlimited revenue too? The Englishman in America will feel that this is slavery—that it is *legal* slavery, will be no compensation, either to his feelings or his understanding.

A noble lord, who spoke some time ago, is full of the fire of ingenuous youth; and when he has modelled the ideas of a lively imagination by further experience, he will be an ornament to his country in either house. He has said, that the Americans are our children, and how can they revolt against their parent? He says, that if they are not free in their present state, England is not free; because Manchester, and other considerable places, are not represented. So then, because some towns in England are not represented, America is to have no representative at all. They are "our children;" but when children ask for bread, we are not to give a stone. Is it because the natural resistance of things, and the various mutations of time, hinder our government, or any scheme of government, from being any more than a sort of approximation to the right, is it therefore that the colonies are to recede from it infinitely? When this child of ours wishes to assimilate to its parent, and to reflect with a true filial resemblance the beauteous countenance of British liberty; are we to turn to them the shameful parts of our constitution? are we to give them our weakness for their strength? our opprobrium for their glory; and the slough of slavery, which we are not able to work off, to serve them for their freedom?

If this be the case, ask yourselves this question, Will they be content in such a state of slavery? if not, look to the consequences. Reflect how you are to govern a people, who think

they ought to be free, and think they are not. Your scheme yields no revenue; it yields nothing but discontent, disorder, disobedience, and such is the state of America, that after wading up to your eyes in blood, you could only end just where you begun; that is, to tax where no revenue is to be found, to —my voice fails me; my inclination indeed carries me no further—all is confusion beyond it.

Well, Sir, I have recovered a little, and before I sit down I must say something to another point with which gentlemen urge us. What is to become of the declaratory act asserting the entireness of British legislative authority, if we abandon the practice of taxation?

For my part, I look upon the rights stated in that act, exactly in the manner in which I viewed them on its very first proposition, and which I have often taken the liberty, with great humility, to lay before you. I look, I say, on the imperial rights of Great Britain, and the privileges which the colonists ought to enjoy under these rights, to be just the most reconcilable things in the world. The parliament of Great Britain sits at the head of her extensive empire in two capacities: one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power.—The other, and I think her nobler capacity, is what I call her *imperial character;* in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them all without annihilating any. As all these provincial legislatures are only co-ordinate to each other, they ought all to be subordinate to her; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the overruling plenitude of her power. She is never to intrude into the place of the others, whilst they are equal to the common ends of their institution. But in order to enable parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless. The gentlemen who think the powers of parliament limited, may please themselves to talk of requisitions. But suppose the requisitions are not obeyed? What! Shall there be no reserved power in the empire, to supply a deficiency which may weaken, divide, and dissipate the whole? We are engaged in war—the secretary of state calls upon the colonies to contribute—some would do it, I think most would cheerfully furnish whatever is demanded—one or two, suppose, hang back, and, easing themselves, let the stress of the draft lie on the others—surely it is proper, that some authority might legally say—"Tax yourselves for the common

supply, or parliament will do it for you." This backwardness was, as I am told, actually the case of Pennsylvania for some short time towards the beginning of the last war, owing to some internal dissensions in the colony. But, whether the fact were so, or otherwise, the case is equally to be provided for by a competent sovereign power. But then this ought to be no ordinary power; nor ever used in the first instance. This is what I meant, when I have said at various times, that I consider the power of taxing in parliament as an instrument of empire, and not as a means of supply.

Such, Sir, is my idea of the constitution of the British empire, as distinguished from the constitution of Britain; and on these grounds I think subordination and liberty may be sufficiently reconciled through the whole; whether to serve a refining speculatist, or a factious demagogue, I know not; but enough surely for the ease and happiness of man.

Sir, whilst we held this happy course, we drew more from the colonies than all the impotent violence of despotism ever could extort from them. We did this abundantly in the last war. It has never been once denied—and what reason have we to imagine that the colonies would not have proceeded in supplying government as liberally, if you had not stepped in and hindered them from contributing, by interrupting the channel in which their liberality flowed with so strong a course; by attempting to take, instead of being satisfied to receive? Sir William Temple says, that Holland has loaded itself with ten times the impositions which it revolted from Spain, rather than submit to. He says true. Tyranny is a poor provider. It knows neither how to accumulate, nor how to extract.

I charge therefore to this new and unfortunate system the loss not only of peace, of union, and of commerce, but even of revenue, which its friends are contending for.—It is morally certain, that we have lost at least a million of free grants since the peace. I think we have lost a great deal more; and that those who look for a revenue from the provinces, never could have pursued, even in that light, a course more directly repugnant to their purposes.

Now Sir, I trust I have shown, first on that narrow ground which the honorable gentleman measured, that you are like to lose nothing by complying with the motion, except what you have lost already. I have shown afterwards, that in time of peace you flourished in commerce, and when war required it, had sufficient aid from the colonies, while you pursued your ancient policy; that you threw everything into confusion when you made the stamp-act; and that you restored everything to

peace and order when you repealed it. I have shown that the revival of the system of taxation has produced the very worst effects; and that the partial repeal has produced, not partial good, but universal evil. Let these considerations, founded on facts, not one of which can be denied, bring us back to our reason by the road of our experience.

I cannot, as I have said, answer for mixed measures: but surely this mixture of lenity would give the whole a better chance of success. When you once regain confidence, the way will be clear before you. Then you may enforce the act of navigation when it ought to be enforced. You will yourselves open it where it ought still further to be opened. Proceed in what you do, whatever you do, from policy, and not from rancor. Let us act like men, let us act like statesmen. Let us hold some sort of consistent conduct. It is agreed that a revenue is not to be had in America. If we lose the profit, let us get rid of the odium.

On this business of America, I confess I am serious, even to sadness. I have had but one opinion concerning it since I sat, and before I sat in parliament. The noble lord will, as usual, probably, attribute the part taken by me and my friends in this business, to a desire of getting his places. Let him enjoy this happy and original idea. If I deprived him of it, I should take away most of his wit, and all his argument. But I had rather bear the brunt of all his wit, and indeed blows much heavier, than stand answerable to God for embracing a system that tends to the destruction of some of the very best and fairest of his works. But I know the map of England, as well as the noble lord, or as any other person; and I know that the way I take is not the road to preferment. My excellent and honorable friend under me on the floor, has trod that road with great toil for upwards of twenty years together. He is not yet arrived at the noble lord's destination. However, the tracks of my worthy friend are those I have ever wished to follow; because I know they lead to honor. Long may we tread the same road together; whoever may accompany us, or whoever may laugh at us on our journey! I honestly and solemnly declare, I have in all seasons adhered to the system of 1766, for no other reason, than that I think it laid deep in your truest interests—and that, by limiting the exercise, it fixes on the firmest foundations, a real, consistent, well-grounded authority in parliament. Until you come back to that system, there will be no peace for England.

MR. BURKE'S SPEECH,

TO

THE ELECTORS OF BRISTOL.

Mr. Mayor, and Gentlemen,

I am extremely pleased at the appearance of this large and respectable meeting. The steps I may be obliged to take will want the sanction of a considerable authority; and in explaining anything which may appear doubtful in my public conduct, I must naturally desire a very full audience.

I have been backward to begin my canvass.—The dissolution of the parliament was uncertain; and it did not become me, by an unseasonable importunity, to appear diffident of the fact of my six years' endeavors to please you. I had served the city of Bristol honorably; and the city of Bristol had no reason to think, that the means of honorable service to the public, were become indifferent to me.

I found, on my arrival here, that three gentlemen had been long in eager pursuit of an object which but two of us can obtain. I found, that they had all met with encouragement. A contested election in such a city as this, is no light thing. I paused on the brink of the precipice. These three gentlemen, by various merits, and on various titles, I made no doubt, were worthy of your favor. I shall never attempt to raise myself by depreciating the merits of my competitors. In the complexity and confusion of these cross pursuits, I wished to take the authentic public sense of my friends upon a business of so much delicacy. I wished to take your opinion along with me; that if I should give up the contest at the very beginning, my surrender of my post may not seem the effect of inconstancy, or timidity, or anger, or disgust, or indolence, or any other temper unbecoming a man who has engaged in the public service. If, on the contrary, I should undertake the election, and fail of success, I was full as anxious that it should be manifest to the whole world, that the peace of the city had not been broken by my rashness, presumption, or fond conceit of my own merit.

I am not come, by a false and counterfeit show of deference to your judgment, to seduce it in my favor. I ask it seriously and unaffectedly. If you wish that I should retire, I shall not

consider that advice as a censure upon my conduct, or an alteration in your sentiments; but as a rational submission to the circumstances of affairs. If, on the contrary you should think it proper for me to proceed on my canvass, if you will risk the trouble on your part, I will risk it on mine. My pretensions are such as you cannot be ashamed of, whether they succeed or fail.

If you call upon me, I shall solicit the favor of the city upon manly ground. I come before you with the plain confidence of an honest servant in the equity of a candid and discerning master. I come to claim your approbation, not to amuse you with vain apologies, or with professions still more vain and senseless. I have lived too long to be served by apologies, or to stand in need of them. The part I have acted has been in open day; and to hold out to a conduct, which stands in that clear and steady light for all its good and all its evil, to hold out to that conduct the paltry winking tapers of excuses and promises—I never will do it. They may obscure it with their smoke; but they never can illumine sunshine by such a flame as theirs.

I am sensible that no endeavors have been left untried to injure me in your opinion. But the use of character is to be a shield against calumny. I could wish, undoubtedly (if idle wishes were not the most idle of all things) to make every part of my conduct agreeable to every one of my constituents. But in so great a city, and so greatly divided as this, it is weak to expect it.

In such a discordancy of sentiments, it is better to look to the nature of things than to the humors of men. The very attempt towards pleasing everybody, discovers a temper always flashy, and often false and insincere. Therefore, as I have proceeded straight onward in my conduct, so I will proceed in my account of those parts of it which have been most excepted to. But I must first beg leave just to hint to you, that we may suffer very great detriment by being open to every talker. It is not to be imagined how much of service is lost from spirits full of activity, and full of energy, who are pressing, who are rushing forward, to great and capital objects, when you oblige them to be continually looking back. Whilst they are defending one service, they defraud you of a hundred. Applaud us when we run; console us when we fall; cheer us when we recover; but let us pass on—for God's sake let us pass on.

Do you think, gentlemen, that every public act in the six years since I stood in this place before you—that all the arduous things which have been done in this eventful period, which has

crowded into a few years' space the revolutions of an age, can be opened to you on their fair grounds in half an hour's conversation?

But it is no reason, because there is a bad mode of inquiry, that there should be no examination at all. Most certainly it is our duty to examine; it is our interest too.—But it must be with discretion; with an attention to all the circumstances, and to all the motives; like sound judges, and not like cavilling pettifoggers and quibbling pleaders, prying into flaws and hunting for exceptions. Look, gentlemen, to the *whole tenor* of your member's conduct. Try whether his ambition or his avarice has justled him out of the straight line of duty; or whether that grand foe of the offices of active life, that mastervice in men of business, a degenerate and inglorious sloth, has made him flag, and languish in his course. This is the object of our inquiry. If our member's conduct can bear this touch, mark it for sterling. He may have fallen into errors; he must have faults; but our error is greater, and our fault is radically ruinous to ourselves, if we do not bear, if we do not even applaud, the whole compound and mixed mass of such a character. Not to act thus is folly; I had almost said it is impiety. He censures God, who quarrels with the imperfections of man.

Gentlemen, we must not be peevish with those who serve the people. For none will serve us whilst there is a court to serve, but those who are of a nice and jealous honor. They who think everything, in comparison of that honor, to be dust and ashes, will not bear to have it soiled and impaired by those for whose sake they make a thousand sacrifices to preserve it immaculate and whole. We shall either drive such men from the public stage, or we shall send them to the court for protection: where, if they must sacrifice their reputation, they will at least secure their interest. Depend upon it, that the lovers of freedom will be free. None will violate their conscience to please us, in order afterwards to discharge that conscience, which they have violated, by doing us faithful and affectionate service. If we degrade and deprave their minds by servility, it will be absurd to expect, that they who are creeping and abject towards us, will ever be bold and incorruptible asserters of our freedom, against the most seducing and the most formidable of all powers. No. Human nature is not so formed: nor shall we improve the faculties or better the morals of public men, by our possession of the most infallible receipt in the world for making cheats and hypocrites.

Let me say with plainness, I who am no longer in a public character, that if by a fair, by an indulgent, by a gentlemanly behavior to our representatives, we do not give confidence

to their minds, and a liberal scope to their understandings; if we do not permit our members to act upon a *very* enlarged view of things, we shall at length infallibly degrade our national representation into a confused and scuffling bustle of local agency. When the popular member is narrowed in his ideas, and rendered timid in his proceedings, the service of the crown will be the sole nursery of statesmen. Among the frolics of the court, it may at length take that of attending to its business. Then the monopoly of mental power will be added to the power of all other kinds it possesses. On the side of the people there will be nothing but impotence: for ignorance is impotence; narrowness of mind is impotence; timidity is itself impotence, and makes all other qualities that go along with it, impotent and useless.

At present, it is the plan of the court to make its servants insignificant. If the people should fall into the same humor, and should choose their servants on the same principles of mere obsequiousness, and flexibility, and total vacancy or indifference of opinion in all public matters, then no part of the state will be sound; and it will be in vain to think of saving of it.

I thought it very expedient at this time to give you this candid counsel; and with this counsel I would willingly close, if the matters which at various times have been objected to me in this city concerned only myself, and my own election. These charges, I think, are four in number—my neglect of a due attention to my constituents—the not paying more frequent visits here—my conduct on the affairs of the first Irish trade acts—my opinion and mode of proceeding on lord Beauchamp's debtor's bills—and my votes on the late affairs of the Roman Catholics. All of these (except perhaps the first) relate to matters of very considerable public concern; and it is not lest you should censure me improperly, but lest you should form improper opinions on matters of some moment to you, that I trouble you at all upon the subject. My conduct is of small importance.

With regard to the first charge, my friends have spoken to me of it in the style of amicable expostulation; not so much blaming the thing, as lamenting the effects. Others, less partial to me, were less kind in assigning the motives. I admit, there is a decorum and propriety in a member of parliament's paying a respectful court to his constituents. If I were conscious to myself that pleasure or dissipation, or low unworthy occupations, had detained me from personal attendance on you, I would readily admit my fault, and quietly submit to the penalty. But, gentlemen, I live a hundred miles' distance from

Bristol; and at the end of a session I come to my own house, fatigued in body and in mind, to a little repose, and to a very little attention to my family and my private concerns. A visit to Bristol is always a sort of canvass; else it will do more harm than good. To pass from the toils of a session to the toils of a canvass, is the furthest thing in the world from repose. I could hardly serve you *as I have done*, and court you too. Most of you have heard, that I do not very remarkably spare myself in *public* business; and in the *private* business of my constituents I have done very near as much as those who have nothing else to do. My canvass of you was not on the change, nor in the county meetings, nor in the clubs of this city. It was in the house of commons; it was at the custom-house; it was at the council; it was at the treasury; it was at the admiralty. I canvassed you through your affairs, and not your persons. I was not only your representative as a body; I was the agent, the solicitor of individuals. I ran about wherever your affairs could call me; and in acting for you, I often appeared rather as a ship-broker, than as a member of parliament. There was nothing too laborious, or too low, for me to undertake. The meanness of the business was raised by the dignity of the object. If some lesser matters have slipped through my fingers, it was because I filled my hands too full; and, in my eagerness to serve you, took in more than my hands could grasp. Several gentlemen stand round me who are my willing witnesses; and there are others who, if they were here, would be still better; because they would be unwilling witnesses to the same truth. It was in the middle of a summer residence in London, and in the middle of a negotiation at the admiralty for your trade, that I was called to Bristol; and this late visit, at this late day, has been possibly in prejudice to your affairs.

Since I have touched upon this matter, let me say, gentlemen, that if I had a disposition, or a right to complain, I have some cause of complaint on my side. With a petition of this city in my hand, passed through the corporation without a dissenting voice, a petition in unison with almost the whole voice of the kingdom (with whose formal thanks I was covered over) while I labored on no less than five bills for a public reform, and fought against the opposition of great abilities, and of the greatest power, every clause and every word of the largest of those bills, almost to the very last day of a very long session; all this time a canvass in Bristol was as calmly carried on as if I were dead. I was considered as a man wholly out of the question. Whilst I watched, and fasted, and sweated in the house of commons—by the most easy and cr-

dinary arts of election, by dinners and visits, by "How do you dos," and "My worthy friends," I was to be quietly moved out of my seat—and promises were made, and engagements entered into, without any exception or reserve, as if my laborious zeal in my duty had been a regular abdication of my trust.

To open my whole heart to you on this subject, I do confess, however, that there were other times besides the two years in which I did visit you, when I was not wholly without leisure for repeating that mark of my respect. But I could not bring my mind to see you. You remember, that in the beginning of this American war (that era of calamity, disgrace, and downfall, an era which no feeling mind will ever mention without a tear for England) you were greatly divided; and a very strong body, if not the strongest, opposed itself to the madness which every art and every power were employed to render popular, in order that the errors of the rulers might be lost in the general blindness of the nation. This opposition continued until after our great, but most unfortunate victory at Long Island. Then all the mound and banks of our constancy were borne down at once; and the frenzy of the American war broke in upon us like a deluge. This victory, which seemed to put an immediate end to all difficulties, perfected us in that spirit of domination, which our unparalleled prosperity had but too long nurtured. We had been so very powerful, and so very prosperous, that even the humblest of us were degraded into the vices and follies of kings. We lost all measure between means and ends; and our headlong desires became our politics and our morals. All men who wished for peace, or retained any sentiments of moderation, were overborne or silenced; and this city was led by every artifice (and probably with the more management, because I was one of your members) to distinguish itself by its zeal for that fatal cause. In this temper of yours and of my mind, I should have sooner fled to the extremities of the earth, than have shown myself here. I, who saw in every American victory (for you have had a long series of these misfortunes) the germ and seed of the naval power of France and Spain, which all our heat and warmth against America was only hatching into life. I should not have been a welcome visitant with the brow and the language of such feelings. When, afterwards, the other face of your calamity was turned upon you, and showed itself in defeat and distress, I shunned you full as much. I felt sorely this variety in our wretchedness; and I did not wish to have the least appearance of insulting you with that show of superiority, which, though it may not be assumed, is gene

rally suspected in a time of calamity, from those whose previous warnings have been despised. I could not bear to show you a representative whose face did not reflect that of his constituents; a face that could not joy in your joys, and sorrow in your sorrows. But time at length has made us all of one opinion; and we have all opened our eyes on the true nature of the American war, to the true nature of all its successes and all its failures.

In that public storm too I had my private feelings. I had seen blown down and prostrate on the ground several of those houses to whom I was chiefly indebted for the honor this city has done me. I confess that whilst the wounds of those loved were yet green, I could not bear to show myself in pride and triumph in that place into which their partiality had brough me, and to appear at feasts and rejoicings, in the midst of the grief and calamity of my warm friends, my zealous supporters, my generous benefactors. This is a true, unvarnished, undisguised state of the affair. You will judge of it.

This is the only one of the charges in which I am personally concerned. As to the other matters objected against me, which in their turn I shall mention to you, remember once more I do not mean to extenuate or excuse. Why should I, when the things charged are among those upon which I found all my reputation? What would be left to me, if I myself was the man, who softened, and blended, and diluted, and weakened, all the distinguishing colors of my life, so as to leave nothing distinct and determinate in my whole conduct?

It has been said, and it is the second charge, that in the questions of the Irish trade, I did not consult the interest of my constituents, or, to speak out strongly, that I rather acted as a native of Ireland, than as an English member of parliament.

I certainly have very warm good wishes for the place of my birth. But the sphere of my duties is my true country. It was, as a man attached to your interests, and zealous for the conservation of your power and dignity, that I acted on that occasion, and on all occasions. You were involved in the American war. A new world of policy was opened, to which it was necessary we should conform, whether we would or not; and my only thought was how to conform to our situation in such a manner as to unite to this kingdom, in prosperity and in affection, whatever remained of the empire. I was true to my old, standing, invariable principle, that all things which came from Great Britain, should issue as a gift of her bounty and beneficence, rather than as claims recovered against a struggling litigant; or at least, that if your beneficence obtained no credit in your concessions, yet that they should appear the

salutary provisions of your wisdom and foresight; not as things wrung from you with your blood, by the cruel gripe of a rigid necessity. The first concessions, by being (much against my will) mangled and stripped of the parts which were necessary to make out their just correspondence and connexion in trade, were of no use. The next year a feeble attempt was made to bring the thing into better shape. This attempt (countenanced by the minister) on the very first appearance of some popular uneasiness, was, after a considerable progress through the house, thrown out by *him*.

What was the consequence? The whole kingdom of Ireland was instantly in a flame. Threatened by foreigners, and, as they thought, insulted by England, they resolved at once to resist the power of France, and to cast off yours. As for us, we were able neither to protect nor to restrain them. Forty thousand men were raised and disciplined without commission from the crown. Two illegal armies were seen with banners displayed at the same time, and in the same country. No executive magistrate, no judicature, in Ireland, would acknowledge the legality of the army which bore the king's commission; and no law, or appearance of law, authorized the army commissioned by itself. In this unexampled state of things, which the least error, the least trespass on the right or left, would have hurried down the precipice into an abyss of blood and confusion, the people of Ireland demand a freedom of trade with arms in their hands. They interdict all commerce between the two nations. They deny all new supply in the house of commons, although in time of war. They stint the trust of the old revenue, given for two years to all the king's predecessors, to six months. The British parliament, in a former session frightened into a limited concession by the menaces of Ireland, frightened out of it by the menaces of England, was now frightened back again, and made a universal surrender of all that had been thought the peculiar, reserved, uncommunicable rights of England;—the exclusive commerce of America, of Africa, of the West Indies—all the enumerations of the acts of navigation—all the manufactures,—iron, glass, even the last pledge of jealousy and pride, the interest hid in the secret of our hearts, the inveterate prejudice moulded into the constitution of our frame, even the secret fleece itself, all went together. No reserve; no exception; no debate; no discussion. A sudden light broke in upon us all. It broke in, not through well contrived and well disposed windows, but through flaws and breaches; through the yawning chasms of our ruin. We were taught wisdom by humiliation. No town in England presumed to have a prejudice, or dared to mutter a petition. What was

worse, the whole parliament of England, which retained authority for nothing but surrenders, was despoiled of every shadow of its superintendence. It was, without any qualification, denied in theory, as it had been trampled upon in practice. This scene of shame and disgrace has, in a manner whilst I am speaking, ended by the perpetual establishment of a military power, in the dominions of this crown, without consent of the British legislature, contrary to the policy of the constitution, contrary to the declaration of right: and by this your liberties are swept away along with your supreme authority—and both, linked together from the beginning, have, I am afraid, both together perished for ever.

What! gentlemen, was I not to foresee, or foreseeing was I not to endeavor to save you from all these multiplied mischiefs and disgraces? Would the little, silly, canvass prattle of obeying instructions, and having no opinions but yours, and such idle senseless tales, which amuse the vacant ears of unthinking men, have saved you from "the pelting of that pitiless storm," to which the loose improvidence, the cowardly rashness of those who dare not look danger in the face, so as to provide against it in time, and therefore throw themselves headlong into the midst of it, have exposed this degraded nation, beat down and prostrate on the earth, unsheltered unarmed, unresisting? Was I an Irishman on that day, that I boldly withstood our pride? or on the day that I hung down my head, and wept in shame and silence over the humiliation of Great Britain? I became unpopular in England for the one and in Ireland for the other. What then? What obligation lay on me to be popular? I was bound to serve both kingdoms. To be pleased with my service, was their affair, not mine.

I was an Irishman in the Irish business, just as much as I was an American, when, on the same principles, I wished you to concede to America, at a time when she prayed concession at our feet. Just as much was I an American, when I wished parliament to offer terms in victory, and not to wait the well chosen hour of defeat, for making good by weakness, and by supplication, a claim of prerogative, pre-eminence, and authority.

Instead of requiring it from me, as a point of duty, to kindle with your passions, had you all been as cool as I was, you would have been saved disgraces and distresses that are unutterable. Do you remember our commission? We sent out a solemn embassy across the Atlantic ocean, to lay the crown, the peerage, the commons of Great Britain, at the feet of the American congress. That our disgrace might want no sort of brightening and burnishing, observe who they were that com-

posed this famous embassy. My lord Carlisle is among the first ranks of our nobility. He is the identical man who but two years before had been put forward, at the opening of a session in the house of lords, as the mover of a haughty and rigorous address against America. He was put in the front of the embassy of submission. Mr. Eden was taken from the office of lord Suffolk, to whom he was then under secretary of state; from the office of that lord Suffolk, who but a few weeks before, in his place in parliament, did not deign to inquire where a congress of vagrants was to be found. This lord Suffolk sent Mr. Eden to find the vagrants, without knowing where his king's generals were to be found, who were joined in the same commission of supplicating those whom they were sent to subdue. They enter the capital of America only to abandon it; and these asserters and representatives of the dignity of England, at the tail of a flying army, let fly their Parthian shafts of memorials and remonstrances at random behind them. Their promises and their offers, their flatteries and their menaces, were all despised; and we were saved the disgrace of their formal reception, only because the congress scorned to receive them; whilst the state house of independent Philadelphia opened her doors to the public entry of the ambassador of France. From war and blood we went to submission; and from submission plunged back again to war and blood; to desolate and be desolated, without measure, hope, or end. I am a royalist: I blush for this degradation of the crown. I am a whig; I blush for the dishonor of parliament. I am a true Englishman: I felt to the quick for the disgrace of England. I am a man: I felt for the melancholy reverse of human affairs, in the fall of the first power in the world.

To read what was approaching in Ireland, in the black and bloody characters of the American war, was a painful, but it was a necessary part of my public duty, For, gentlemen, it is not your fond desires or mine that can alter the nature of things; by contending against which what have we got, or shall ever get, but defeat and shame? I did not obey your instructions! No. I conformed to the instructions of truth and nature, and maintained your interest, against your opinions, with a constancy that became me. A representative worthy of you, ought to be a person of stability. I am to look, indeed, to your opinions; but to such opinions as you and I *must* have five years hence. I was not to look to the flash of the day. I knew that you chose me, in my place, along with others, to be a pillar of the state, and not a weathercock on the top of the edifice, exalted for my levity and versatility, and of no use but to indicate the shiftings of every fashionable gale. Would to God.

the value of my sentiments on Ireland and on America had been at this day a subject of doubt and discussion! No matter what my sufferings had been, so that this kingdom had kept the authority I wished it to maintain, by a grave foresight, and by an equitable temperance in the use of its power.

The next article of charge on my public conduct, and that which I find rather the most prevalent of all, is lord Beauchamp's bill. I mean his bill of last session, for reforming the law-process concerning imprisonment. It is said, to aggravate the offence, that I treated the petition of this city with contempt even in presenting it to the house, and expressed myself in terms of marked disrespect. Had this latter part of the charge been true, no merits on the side of the question which I took, could possibly excuse me. But I am incapable of treating this city with disrespect. Very fortunately, at this minute (if my bad eyesight does not deceive me) the worthy gentleman deputed on this business stands directly before me. To him I appeal, whether I did not, though it militated with my oldest and my most recent public opinions, deliver the petition with a strong and more than usual recommendation to the consideration of the house, on account of the character and consequence of those who signed it. I believe the worthy gentleman will tell you, that the very day I received it, I applied to the solicitor, now the attorney general, to give it an immediate consideration; and he most obligingly and instantly consented to employ a great deal of his very valuable time to write an explanation of the bill. I attended the committee with all possible care and diligence, in order that every objection of yours might meet with a solution; or produce an alteration. I entreated your learned recorder (always ready in business in which you take a concern) to attend. But what will you say to those who blame me for supporting lord Beauchamp's bill, as a disrespectful treatment of your petition, when you hear, that out of respect to you, I myself was the cause of the loss of that very bill? For the noble lord who brought it in, and who, I must say, has much merit for this and some other measures, at my request consented to put it off for a week, which the speaker's illness lengthened to a fortnight; and then the frantic tumult about popery drove that and every rational business from the house. So that if I chose to make a defence of myself, on the little principles of a culprit, pleading in his exculpation, I might not only secure my acquittal, but make merit with the opposers of the bill. But I shall do no such thing. The truth is, that I did occasion the loss of the bill, and by a delay caused by my respect to you. But such an event was never in my contemplation. And I am so far from taking credit for the defeat of that

measure, that I cannot sufficiently lament my misfortune, if but one man, who ought to be at large, has passed a year in prison by my means. I am a debtor to the debtors. I confess judgment. I owe, what, if ever it be in my power, I shall most certainly pay—ample atonement, and usurious amends to liberty and humanity for my unhappy lapse. For, gentlemen, lord Beauchamp's bill was a law of justice and policy, as far as it went. I say as far as it went; for its fault was its being, in the remedial part, miserably defective.

There are two capital faults in our law with relation to civil debts. One is, that every man is presumed solvent. A presumption, in innumerable cases, directly against truth. Therefore the debtor is ordered, on a supposition of ability and fraud, to be coerced his liberty until he makes payment. By this means, in all cases of civil insolvency, without a pardon from his creditor, he is to be imprisoned for life:—and thus a miserable mistaken invention of artificial science, operates to change a civil into a criminal judgment, and to scourge misfortune or indiscretion with a punishment which the law does not inflict on the greatest crimes.

The next fault is, that the inflicting of that punishment is not on the opinion of an equal and public judge; but is referred to the arbitrary discretion of a private, nay interested, and irritated, individual. He, who formally is, and substantially ought to be, the judge, is in reality no more than ministerial, a mere executive instrument of a private man, who is at once judge and party. Every idea of judicial order is subverted by this procedure. If the insolvency be no crime, why is it punished with arbitrary imprisonment? If it be a crime, why is it delivered into private hands to pardon without discretion, or to punish without mercy and without measure?

To these faults, gross and cruel faults in our law, the excellent principle of lord Beauchamp's bill applied some sort of remedy. I know that credit must be preserved; but equity must be preserved too; and it is impossible, that anything should be necessary to commerce, which is inconsistent with justice. The principle of credit was not weakened by that bill. God forbid! The enforcement of that credit was only put into the same public judicial hands on which we depend for our lives, and all that makes life dear to us. But, indeed, this business was taken up too warmly both here and elsewhere. The bill was extremely mistaken. It was supposed to enact what it never enacted; and complaints were made of clauses in it as novelties, which existed before the noble lord that brought in the bill was born. There was a fallacy that ran through the whole of the objections. The gentlemen who opposed the bill

always argued, as if the option lay between that bill and the ancient law. But this is a grand mistake. For, practically, the option is between, not that bill and the old law, but between that bill and those occasional laws called acts of grace. For the operation of the old law is so savage, and so inconvenient to society, that for a long time past, once in every parliament, and lately twice, the legislature has been obliged to make a general arbitrary jail delivery, and at once to set open, by its sovereign authority, all the prisons in England.

Gentlemen, I never relished acts of grace; nor ever submitted to them but from despair of better. They are a dishonorable invention, by which, not from humanity, not from policy; but merely because we have not room enough to hold these victims of the absurdity of our laws, we turn loose upon the public three or four thousand naked wretches, corrupted by the habits, debased by the ignominy, of a prison. If the creditor had a right to those carcases as a natural security for his property, I am sure we have no right to deprive him of that security. But if the few pounds of flesh were not necessary to his security, we had not a right to detain the unfortunate debtor, without any benefit at all to the person who confined him. Take it as you will, we commit injustice. Now, lord Beauchamp's bill intended to do deliberately, and with great caution and circumspection, upon each several case, and with all attention to the just claimant, what acts of grace do in a much greater measure, and with very little care, caution, or deliberation.

I suspect that here too, if we continue to oppose this bill, we shall be found in a struggle against the nature of things. For as we grow enlightened, the public will not bear, for any length of time, to pay for the maintenance of whole armies of prisoners, nor, at their own expense, submit to keep jails as a sort of garrisons, merely to fortify the absurd principle of making men judges in their own cause. For credit has little or no concern in this cruelty. I speak in a commercial assembly. You know that credit is given, because capital *must* be employed; that men calculate the chances of insolvency; and they either withhold the credit, or make the debtor pay the risk in the price. The counting-house has no alliance with the jail. Holland understands trade as well as we, and she has done much more than this obnoxious bill intended to do. There was not, when Mr. Howard visited Holland, more than one prisoner for debt in the great city of Rotterdam. Although lord Beauchamp's act (which was previous to this bill, and intended to feel the way for it) has already preserved liberty to thousands; and though it is not three years since the last act of grace passed, yet by Mr. Howard's last account, there were near three thousand again in

jail. I cannot name this gentleman without remarking, that his labors and writings have done much to open the eyes and hearts of mankind. He has visited all Europe,—not to survey the sumptuousness of palaces, or the stateliness of temples; not to make accurate measurements of the remains of ancient grandeur, nor to form a scale of the curiosity of modern art; not to collect medals, or collate manuscripts:—but to dive into the depths of dungeons; to plunge into the infection of hospitals; to survey the mansions of sorrow and pain; to take the gauge and dimensions of misery, depression, and contempt; to remember the forgotten, to attend to the neglected, to visit the forsaken, and to compare and collate the distresses of all men in all countries. His plan is original; and it is as full of genius as it is of humanity. It was a voyage of discovery; a circumnavigation of charity. Already the benefit of his labor is felt more or less in every country: I hope he will anticipate his final reward, by seeing all its effects fully realized in his own. He will receive, not by retail but in gross, the reward of those who visit the prisoner; and he has so forestalled and monopolized this branch of charity, that there will be, I trust, little room to merit by such acts of benevolence hereafter.

Nothing now remains to trouble you with, but the fourth charge against me—the business of the Roman Catholics. It is a business closely connected with the rest. They are all on one and the same principle. My little scheme of conduct, such as it is, is all arranged. I could do nothing but what I have done on this subject, without confounding the whole train of my ideas, and disturbing the whole order of my life. Gentlemen, I ought to apologize to you, for seeming to think anything at all necessary to be said upon this matter. The calumny is fitter to be scrawled with the midnight chalk of incendiaries, with "No popery," on walls and doors of devoted houses, than to be mentioned in any civilized company. I had heard, that the spirit of discontent on that subject was very prevalent here. With pleasure I find that I have been grossly misinformed. If it exists at all in this city, the laws have crushed its exertions, and our morals have shamed its appearance in daylight. I have pursued this spirit wherever I could trace it; but it still fled from me. It was a ghost which all had heard of, but none had seen. None would acknowledge that he thought the public proceeding with regard to our Catholic dissenters to be blamable; but several were sorry it had made an ill impression upon others, and that my interest was hurt by my share in the business. I find with satisfaction and pride, that not above four or five in this city (and I dare say these misled by some gross misrepresentation) have signed that symbol of delusion and bond

of sedition, that libel on the national religion and English character, the Protestant Association. It is therefore, gentlemen, not by way of cure but of prevention, and lest the arts of wicked men may prevail over the integrity of any one amongst us, that I think it necessary to open to you the merits of this transaction pretty much at large; and I beg your patience upon it: for, although the reasonings that have been used to depreciate the act are of little force, and though the authority of the men concerned in this ill design is not very imposing; yet the audaciousness of these conspirators against the national honor, and the extensive wickedness of their attempts, have raised persons of little importance to a degree of evil eminence, and imparted a sort of sinister dignity to proceedings that had their origin in only the meanest and blindest malice.

In explaining to you the proceedings of parliament which have been complained of, I will state to you,—first, the thing that was done;—next, the persons who did it;—and lastly, the grounds and reasons upon which the legislature proceeded in this deliberate act of public justice and public prudence.

Gentlemen, the condition of our nature is such, that we buy our blessings at a price. The reformation, one of the greatest periods of human improvement, was a time of trouble and confusion. The vast structure of superstition and tyranny, which had been for ages in rearing, and which was combined with the interest of the great and of the many; which was moulded into the laws, the manners, and civil institutions of nations, and blended with the frame and policy of states, could not be brought to the ground without a fearful struggle; nor could it fall without a violent concussion of itself and all about it. When this great revolution was attempted in a more regular mode by government, it was opposed by plots and seditions of the people; when by popular efforts, it was repressed as rebellion by the hand of power; and bloody executions (often bloodily returned) marked the whole of its progress through all its stages. The affairs of religion, which are no longer heard of in the tumult of our present contentions, made a principal ingredient in the wars and politics of that time; the enthusiasm of religion threw a gloom over the politics; and political interests poisoned and perverted the spirit of religion upon all sides. The Protestant religion, in that violent struggle, infected, as the Popish had been before, by worldly interests and worldly passions, became a persecutor in its turn, sometimes of the new sects, which carried their own principles further than was convenient to the original reformers; and always of the body from whom they parted; and this persecuting

spirit arose, not only from the bitterness of retaliation, but from the merciless policy of fear.

A statute was fabricated in the year 1699, by which the saying mass (a church service in the Latin tongue, not exactly the same as our liturgy, but very near it, and containing no offence whatsoever against the laws, or against good morals) was forged into a crime punishable with perpetual imprisonment. The teaching school, a useful and virtuous occupation, even the teaching in a private family, was in every Catholic subjected to the same unproportioned punishment. Your industry, and the bread of your children, was taxed for a pecuniary reward to stimulate avarice to do what nature refused; to inform and prosecute on this law. Every Roman Catholic was, under the same act, to forfeit his estate to his nearest Protestant relation, until, through a profession of what he did not believe, he redeemed, by his hypocrisy, what the law had transferred to the kinsman as the recompense of his profligacy. When thus turned out of doors from his paternal estate, he was disabled from acquiring any other by any industry, donation, or charity; but was rendered a foreigner in his native land, only because he retained the religion, along with the property handed down to him from those who had been the old inhabitants of that land before him.

Does any one who hears me approve this scheme of things, or think there is common justice, common sense, or common honesty in any part of it? If any does, let him say it; and I am ready to discuss the point with temper and candor. But instead of approving, I perceive a virtuous indignation beginning to rise in your minds on the mere cold stating of the statute.

But what will you feel, when you know from history how this statute passed, and what were the motives, and what the mode of making it? A party in this nation, enemies to the system of the revolution, were in opposition to the government of king William. They knew that our glorious deliverer was an enemy to all persecution. They knew that he came to free us from slavery and popery, out of a country, where a third of the people are contented Catholics under a Protestant government. He came with a part of his army composed of those very Catholics, to overset the power of a popish prince. Such is the effect of a tolerating spirit; and so much is liberty served in every way, and by all persons, by a manly adherence to its own principles. Whilst freedom is true to itself, every thing becomes subject to it; and its very adversaries are an instrument in its hands.

The party I speak of (like some amongst us who would dis-

parage the best friends of their country) resolved to make the king either violate his principles of toleration, or incur the odium of protecting Papists. They therefore brought in this bill, and made it purposely wicked and absurd that it might be rejected. The then court party, discovering their game, turned the tables on them, and returned their bill to them stuffed with still greater absurdities, that its loss might lie upon its original authors. They, finding their own ball thrown back to them, kicked it back again to their adversaries. And thus this act, loaded with the double injustice of two parties, neither of whom intended to pass what they hoped the other would be persuaded to reject, went through the legislature, contrary to the real wish of all parts of it, and of all the parties that composed it. In this manner, these insolent and profligate factions, as if they were playing with balls and counters, made a sport of the fortunes and the liberties of their fellow-creatures. Other acts of persecution have been acts of malice. This was a subversion of justice from wantonness and petulance. Look into the history of bishop Burnet. He is a witness without exception.

Gentlemen, bad laws are the worst sort of tyranny. In such a country as this, they are of all bad things the worst: worse by far than anywhere else; and they derive a particular malignity even from the wisdom and soundness of the rest of our institutions. For very obvious reasons, you cannot trust the crown with a dispensing power over any of your laws. However, a government, be it as bad as it may, will, in the exercise of a discretionary power, discriminate times and persons; and will not ordinarily pursue any man, when its own safety is not concerned. A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual. They are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

In this situation, men not only shrink from the frowns of a stern magistrate, but they are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase man-

kind, and to deprive them of that assured and liberal state of mind, which alone can make us what we ought to be, that I vow to God I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction; corrupted himself, and corrupting all about him.

The act repealed was of this direct tendency; and it was made in the manner which I have related to you. I will now tell you by whom the bill of repeal was brought into parliament. I find it has been industriously given out in this city (from kindness to me unquestionably) that I was the mover or the seconder. The fact is, I did not once open my lips on the subject during the whole progress of the bill. I do not say this as disclaiming my share in the measure. Very far from it. I inform you of this fact, lest I should seem to arrogate to myself the merits which belong to others. To have been the man chosen out to redeem our fellow-citizens from slavery; to purify our laws from absurdity and injustice; and to cleanse our religion from the blot and stain of persecution, would be an honor and happiness to which my wishes would undoubtedly aspire; but to which nothing but my wishes could possibly have entitled me. That great work was in hands in every respect far better qualified than mine. The mover of the bill was Sir George Saville.

When an act of great and signal humanity was to be done, and done with all the weight and authority that belonged to it, the world could cast its eyes upon none but him. I hope that few things, which have a tendency to bless or to adorn life, have wholly escaped my observation in my passage through it. I have sought the acquaintance of that gentleman, and have seen him in all situations. He is a true genius; with an understanding vigorous, and acute, and refined, and distinguishing even to excess; and illuminated with a most unbounded, peculiar, and original cast of imagination. With these he possesses many external and instrumental advantages; and he makes use of them all. His fortune is among the largest; a fortune which, wholly unencumbered, as it is, with one single charge from luxury, vanity, or excess, sinks under the benevolence of its dispenser. This private benevolence, expanding itself into patriotism, renders his whole being the estate of the public, in which he has not reserved a *peculium* for himself of profit, diversion, or relaxation. During the session, the first in, and the last out of the house of commons; he passes from the senate to the camp; and seldom seeing the seat of his an

cestors, he is always in parliament to serve his country, or in the field to defend it. But in all well-wrought compositions, some particulars stand out more eminently than the rest; and the things which will carry his name to posterity, are his two bills; I mean that for a limitation of the claims of the crown upon landed estates; and this for the relief of the Roman Catholics. By the former, he has emancipated property; by the latter, he has quieted conscience; and by both, he has taught that grand lesson to government and subject—no longer to regard each other as adverse parties.

The seconder was worthy of the mover, and the motion. I was not the seconder. It was Mr. Dunning, recorder of this city. I shall say the less of him, because his near relation to you makes you more particularly acquainted with his merits. But I should appear little acquainted with them, or little sensible of them, if I could utter his name on this occasion without expressing my esteem for his character. I am not afraid of offending a most learned body, and most jealous of its reputation for that learning, when I say he is the first of his profession. It is a point settled by those who settle everything else; and I must add (what I am enabled to say from my own long and close observation) that there is not a man, of any profession, or in any situation, of a more erect and independent spirit; of a more proud honor; a more manly mind; a more firm and determined integrity. Assure yourselves, that the names of two such men will bear a great load of prejudice in the other scale, before they can be entirely outweighed.

With this mover, and this seconder, agreed the *whole* house of commons; the *whole* house of lords; the *whole* bench of bishops; the king; the ministry; the opposition; all the distinguished clergy of the establishment; all the eminent lights (for they were consulted) of the dissenting churches. This according voice of national wisdom ought to be listened to with reverence. To say that all these descriptions of Englishmen unanimously concurred in a scheme for introducing the Catholic religion, or that none of them understood the nature and effects of what they were doing, so well as a few obscure clubs of people, whose names you never heard of, is shamelessly absurd. Surely it is paying a miserable compliment to the religion we profess, to suggest, that everything eminent in the kingdom is indifferent, or even adverse to that religion, and that its security is wholly abandoned to the zeal of those who have nothing but their zeal to distinguish them. In weighing this unanimous concurrence of whatever the nation has to boast of, I hope you will recollect, that all these concurring parties do by no means

love one another enough to agree in any point, which was not both evidently, and importantly, right.

To prove this; to prove, that the measure was both clearly and materially proper, I will next lay before you (as I promised) the political grounds and reasons for the repeal of that penal statute; and the motives to its repeal at that particular time.

Gentlemen, America——When the English nation seemed to be dangerously, if not irrevocably divided; when one, and that the most growing branch, was torn from the parent stock, and ingrafted on the power of France, a great terror fell upon this kingdom. On a sudden we awakened from our dreams of conquest, and saw ourselves threatened with an immediate invasion; which we were, at that time, very ill prepared to resist. You remember the cloud that gloomed over us all. In that hour of our dismay, from the bottom of the hiding-places, into which the indiscriminate rigor of our statutes had driven them, came out the body of the Roman Catholics. They appeared before the steps of a tottering throne, with one of the most sober, measured, steady, and dutiful addresses, that was ever presented to the crown. It was no holiday ceremony; no anniversary compliment of parade and show. It was signed by almost every gentleman of that persuasion, of note or property, in England. At such a crisis, nothing but a decided resolution to stand or fall with their country, could have dictated such an address; the direct tendency of which was to cut off all retreat, and to render them peculiarly obnoxious to an invader of their own communion. The address showed, what I long languished to see, that all the subjects of England had cast off all foreign views and connexions, and that every man looked for his relief from every grievance, at the hands only of his own natural government.

It was necessary, on our part, that the natural government should show itself worthy of that name. It was necessary, at the crisis I speak of, that the supreme power of the state should meet the conciliatory dispositions of the subject. To delay protection would be to reject allegiance. And why should it be rejected, or even coldly and suspiciously received? If any independent Catholic state should choose to take part with this kingdom in a war with France and Spain, that bigot (if such a bigot could be found) would be heard with little respect, who could dream of objecting his religion to an ally, whom the nation would not only receive with its freest thanks, but purchase with the last remains of its exhausted treasure. To such an ally we should not dare to whisper a single syllable of those base and invidious topics, upon which, some unhappy men

would persuade the state, to reject the duty and allegiance of its own members. Is it then because foreigners are in a condition to set our malice at defiance, that with *them*, we are willing to contract engagements of friendship, and to keep them with fidelity and honor; but that, because we conceive some descriptions of our countrymen are not powerful enough to punish our malignity, we will not permit them to support our common interest? Is it on that ground that our anger is to be kindled by their offered kindness? Is it on that ground that they are to be subjected to penalties, because they are willing, by actual merit, to purge themselves from imputed crimes? Lest by an adherence to the cause of their country they should acquire a title to fair and equitable treatment, are we resolved to furnish them with causes of eternal enmity; and rather supply them with just and founded motives to disaffection, than not to have that disaffection in existence to justify an oppression, which, not from policy but disposition, we have predetermined to exercise?

What shadow of reason could be assigned, why, at a time when the most Protestant part of this Protestant empire found it for its advantage to unite with the two principal popish states, to unite itself in the closest bonds with France and Spain, for our destruction, that we should refuse to unite with our own Catholic countrymen for our own preservation? Ought we, like madmen, to tear off the plasters, that the lenient hand of prudence had spread over the wounds and gashes, which in our delirium of ambition we had given to our own body? No person ever reprobated the American war more than I did, and do, and ever shall. But I never will consent that we should lay additional voluntary penalties on ourselves, for a fault which carries but too much of its own punishment in its own nature. For one, I was delighted with the proposal of internal peace. I accepted the blessing with thankfulness and transport; I was truly happy to find *one* good effect of our civil distractions, that they had put an end to all religious strife and heart-burning in our own bowels. What must be the sentiments of a man, who would wish to perpetuate domestic hostility, when the causes of dispute are at an end; and who, crying out for peace with one part of the nation on the most humiliating terms, should deny it to those, who offer friendship without any terms at all?

But if I was unable to reconcile such a denial to the contracted principles of local duty, what answer could I give to the broad claims of general humanity? I confess to you freely, that the sufferings and distresses of the people of America in this cruel war, have at times affected me more deeply than I

can express. I felt every Gazette of triumph as a blow upon my heart, which has an hundred times sunk and fainted within me at all the mischiefs brought upon those who bear the whole brunt of war in the heart of their country. Yet the Americans are utter strangers to me; a nation among whom I am not sure that I have a single acquaintance. Was I to suffer my mind to be so unaccountably warped; was I to keep such iniquitous weights and measures of temper and of reason, as to sympathize with those who are in open rebellion against an authority which I respect, at war with a country which by every title ought to be, and is most dear to me; and yet to have no feeling at all for the hardships and indignities suffered by men, who, by their very vicinity, are bound up in a nearer relation to us; who contribute their share, and more than their share, to the common prosperity; who perform the common offices of social life, and who obey the laws to the full as well as I do? Gentlemen, the danger to the state being out of the question (of which, let me tell you, statesmen themselves are apt to have but too exquisite a sense) I could assign no one reason of justice, policy, or feeling, for not concurring most cordially, as most cordially I did concur, in softening some part of that shameful servitude, under which several of my worthy fellow-citizens were groaning.

I dare say, you have all heard of the privileges indulged to the Irish Catholics residing in Spain. You have likewise heard with what circumstances of severity they have been lately expelled from the sea-ports of that kingdom; driven into the inland cities; and there detained as a sort of prisoners of state. I have good reason to believe, that it was the zeal to our government and our cause (somewhat indiscreetly expressed in one of the addresses of the Catholics of Ireland) which has thus drawn down on their heads the indignation of the court of Madrid; to the inexpressible loss of several individuals, and in future, perhaps, to the great detriment of the whole of their body. Now, that our people should be persecuted in Spain for their attachment to this country, and persecuted in this country for their supposed enmity to us, is such a jarring reconciliation of contradictory distresses, is a thing at once so dreadful and ridiculous, that no malice short of diabolical, would wish to continue any human creatures in such a situation. But honest men will not forget either their merit or their sufferings. There are men (and many, I trust, there are) who, out of love to their country and their kind, would torture their invention to find excuses for the mistakes of their brethren; and who, to stifle dissension, would construe, even doubtful appearances, with the utmost favor: such men will never persuade themselves to be

ingenious and refined in discovering disaffection and treason in the manifest palpable signs of suffering loyalty. Persecution is so unnatural to them, that they gladly snatch the very first opportunity of laying aside all the tricks and devices of penal politics; and of returning home, after all their irksome and vexatious wanderings, to our natural family mansion, to the grand social principle, that unites all men, of all descriptions, under the shadow of an equal and impartial justice.

Men of another sort, I mean the bigoted enemies to liberty, may, perhaps, in their politics, make no account of the good or ill affection of the Catholics of England, who are but a handful of people (enough to torment, but not enough to fear) perhaps not so many, of both sexes and of all ages, as fifty thousand. But, gentlemen, it is possible you may not know, that the people of that persuasion in Ireland amount at least to sixteen or seventeen hundred thousand souls. I do not at all exaggerate the number. A *nation* to be persecuted! Whilst we are masters of the sea, embodied with America, and in alliance with half the powers of the continent, we might perhaps, in that remote corner of Europe, afford to tyrannize with impunity. But there is a revolution in our affairs, which makes it prudent to be just. In our late awkward contest with Ireland about trade, had religion been thrown in, to ferment and embitter the mass of discontents, the consequences might have been truly dreadful. But very happily, that cause of quarrel was previously quieted by the wisdom of the acts I am commending.

Even in England, where I admit the danger from the discontent of that persuasion to be less than in Ireland; yet even here, had we listened to the counsels of fanaticism and folly, we might have wounded ourselves very deeply; and wounded ourselves in a very tender part. You are apprized, that the Catholics of England consist mostly of your best manufacturers. Had the legislature chosen, instead of returning their declarations of duty with correspondent good will, to drive them to despair, there is a country at their very door, to which they would be invited; a country in all respects as good as ours, and with the finest cities in the world ready built to receive them. And thus the bigotry of a free country, and in an enlightened age, would have repeopled the cities of Flanders, which, in the darkness of two hundred years ago, had been desolated by the superstition of a cruel tyrant. Our manufactures were the growth of the persecutions in the Low Countries. What a spectacle would it be to Europe, to see us, at this time of day, balancing the account of tyranny with those very countries, and, by our persecutions, driving back trade and manufacture,

as a sort of vagabonds, to their original settlement! But I trust we shall be saved this last of disgraces.

So far as to the effect of the act on the interests of this nation. With regard to the interests of mankind at large, I am sure the benefit was very considerable. Long before this act, indeed, the spirit of toleration began to gain ground in Europe. In Holland, the third part of the people are Catholics; they live at ease; and are a sound part of the state. In many parts of Germany, Protestants and Papists partake the same cities, the same councils, and even the same churches. The unbounded liberality of the king of Prussia's conduct on this occasion is known to all the world; and it is of a piece with the other grand schemes of his reign. The magnanimity of the imperial court, breaking through the narrow principles of its predecessors, has indulged its Protestant subjects, not only with property, with worship, with liberal education; but with honors and trusts, both civil and military. A worthy Protestant gentleman of this country now fills, and fills with credit, a high office in the Austrian Netherlands. Even the Lutheran obstinacy of Sweden has thawed at length, and opened a toleration to all religions. I know myself, that in France the Protestants begin to be at rest. The army, which in that country is everything, is open to them; and some of the military rewards and decorations which the laws deny, are supplied by others, to make the service acceptable and honorable. The first minister of finance in that country, is a Protestant. Two years' war without a tax is among the first fruits of their liberality. Tarnished as the glory of this nation is, and as far as it has waded into the shades of an eclipse, some beams of its former illumination still play upon its surface; and what is done in England is still looked to, as argument, and as example. It is certainly true, that no law of this country ever met with such universal applause abroad, or was so likely to produce the perfection of that tolerating spirit, which, as I observed, has been long gaining ground in Europe: for abroad, it was universally thought that we had done, what, I am sorry to say, we had not; they thought we had granted a full toleration. That opinion was, however, so far from hurting the Protestant cause, that I declare, with the most serious solemnity, my firm belief, that no one thing done for these fifty years past, was so likely to prove deeply beneficial to our religion at large as Sir George Saville's act. In its effects it was, "an act for tolerating and protecting Protestantism throughout Europe:" and I hope, that those who were taking steps for the quiet and settlement of our Protestant brethren in other countries, will even yet, rather

consider the steady equity of the greater and better part of the people of Great Britain, than the vanity and violence of a few.

I perceive, gentlemen, by the manner of all about me, that you look with horror on the wicked clamor which has been raised on this subject; and that instead of an apology for what was done, you rather demand from me an account, why the execution of the scheme of toleration was not made more answerable to the large and liberal grounds on which it was taken up. The question is natural and proper; and I remember that a great and learned magistrate, distinguished for his strong and systematic understanding, and who at that time was a member of the house of commons, made the same objection to the proceeding. The statutes, as they now stand, are, without doubt, perfectly absurd. But I beg leave to explain the cause of this gross imperfection in the tolerating plan, as well and as shortly as I am able. It was universally thought, that the session ought not to pass over without doing *something* in this business. To revise the whole body of the penal statutes was conceived to be an object too big for the time. The penal statute therefore which was chosen for repeal (chosen to show our disposition to conciliate, not to perfect a toleration) was this act of ludicrous cruelty, of which I have just given you the history. It is an act, which, though not by a great deal so fierce and bloody as some of the rest, was infinitely more ready in the execution. It was the act which gave the greatest encouragement to those pests of society, mercenary informers, and interested disturbers of household peace; and it was observed with truth, that the prosecutions, either carried to conviction or compounded, for many years, had been all commenced upon that act. It was said, that whilst we were deliberating on a more perfect scheme, the spirit of the age would never come up to the execution of the statutes which remained; especially as more steps, and a co-operation of more minds and powers, were required towards a mischievous use of them, than for the execution of the act to be repealed: that it was better to unravel this texture from below than from above, beginning with the latest, which, in general practice, is the severest evil. It was alleged, that this slow proceeding would be attended with the advantage of a progressive experience; and that the people would grow reconciled to toleration, when they should find by the effects, that justice was not so irreconcilable an enemy to convenience as they had imagined.

These, gentlemen, were the reasons why we left this good work in the rude unfinished state, in which good works are commonly left, through the tame circumspection with which a timid prudence so frequently enervates beneficence. In doing

good, we are generally cold, and languid, and sluggish; and of all things afraid of being too much in the right. But the works of malice and injustice are quite in another style. They are finished with a bold, masterly hand; touched as they are with the spirit of those vehement passions that call forth all our energies whenever we oppress and persecute.

Thus this matter was left for the time, with a full determination in parliament, not to suffer other and worse statutes to remain for the purpose of counteracting the benefits proposed by the repeal of one penal law; for nobody then dreamed of defending what was done as a benefit on the ground of its being no benefit at all. We were not then ripe for so mean a subterfuge.

I do not wish to go over the horrid scene that was afterwards acted. Would to God it could be expunged for ever from the annals of this country! But since it must subsist for our shame, let it subsist for our instruction. In the year 1780, there were found in this nation men deluded enough (for I give the whole to their delusion) on pretences of zeal and piety, without any sort of provocation whatsoever, real or pretended, to make a desperate attempt, which would have consumed all the glory and power of this country in the flames of London; and buried all law, order, and religion, under the ruins of the metropolis of the Protestant world. Whether all this mischief done, or in the direct train of doing, was in their original scheme, I cannot say. I hope it was not; but this would have been the unavoidable consequence of their proceedings, had not the flames they had lighted up in their fury been extinguished in their blood.

All the time that this horrid scene was acting, or avenging, as well as for some time before, and ever since, the wicked instigators of this unhappy multitude, guilty, with every aggravation, of all their crimes, and screened in a cowardly darkness from their punishment, continued, without interruption, pity, or remorse, to blow up the blind rage of the populace, with a continued blast of pestilential libels, which infected and poisoned the very air we breathed in.

The main drift of all the libels, and all the riots, was, to force parliament (to persuade us was hopeless) into an act of national perfidy, which has no example. For, gentlemen, it is proper you should all know what infamy we escaped by refusing that repeal, for a refusal of which, it seems, I, among others, stand somewhere or other accused. When we took away, on the motives which I had the honor of stating to you, a few of the innumerable penalties upon an oppressed and injured people, the relief was not absolute, but given on a stipulation and com-

pact between them and us; for we bound down the Roman Catholics with the most solemn oaths, to bear true allegiance to this government; to abjure all sort of temporal power in any other; and to renounce, under the same solemn obligations, the doctrines of systematic perfidy, with which they stood (I conceived very unjustly) charged. Now our modest petitioners came up to us, most humbly praying nothing more, than that we should break our faith, without any one cause whatsoever of forfeiture assigned; and when the subjects of this kingdom had, on their part, fully performed their engagement, we should refuse, on our part, the benefit we had stipulated on the performance of those very conditions that were prescribed by our own authority, and taken on the sanction of our public faith: that is to say, when we had inveigled them with fair promises within our door, we were to shut it on them; and, adding mockery to outrage—to tell them: "Now we have got you fast—your consciences are bound to a power resolved on your destruction. We have made you swear, that your religion obliges you to keep your faith: fools as you are! we will now let you see, that our religion enjoins us to keep no faith with you."—They who would advisedly call upon us to do such things, must certainly have thought us not only a convention of treacherous tyrants, but a gang of the lowest and dirtiest wretches that ever disgraced humanity. Had we done this, we should have indeed proved, that there were *some* in the world whom no faith could bind; and we should have *convicted* ourselves of that odious principle of which Papists stood *accused* by those very savages, who wished us, on that accusation, to deliver them over to their fury.

In this audacious tumult, when our very name and character, as gentlemen, was to be cancelled for ever along with the faith and honor of the nation, I, who had exerted myself very little on the quiet passing of the bill, thought it necessary then to come forward. I was not alone; but though some distinguished members on all sides, and particularly on ours, added much to their high reputation by the part they took on that day (a part which will be remembered as long as honor, spirit, and eloquence have estimation in the world) I may and will value myself so far, that, yielding in abilities to many, I yielded in zeal to none. With warmth and with vigor, and animated with a just and natural indignation, I called forth every faculty that I possessed, and I directed it in every way in which I could possibly employ it. I labored night and day. I labored in parliament. I labored out of parliament. If therefore the resolution of the house of commons, refusing to commit this act of unmatched turpitude, be a crime, I am guilty among the foremost. But

indeed, whatever the faults of that house may have been, no one member was found hardy enough to propose so infamous a thing; and on full debate we passed the resolution against the petitions with as much unanimity, as we had formerly passed the law of which these petitions demanded the repeal.

There was a circumstance (justice will not suffer me to pass it over) which, if anything could enforce the reasons I have given, would fully justify the act of relief, and render a repeal, or anything like a repeal, unnatural, impossible. It was the behavior of the persecuted Roman Catholics under the acts of violence and brutal insolence, which they suffered. I suppose there are not in London less than four or five thousand of that persuasion from my country, who do a great deal of the most laborious works in the metropolis; and they chiefly inhabit those quarters, which were the principal theatre of the fury of the bigoted multitude. They are known to be men of strong arms and quick feelings, and more remarkable for a determined resolution, than clear ideas, or much foresight. But though provoked by everything that can stir the blood of men, their houses and chapels in flames, and with the most atrocious profanations of everything which they hold sacred before their eyes, not a hand was moved to retaliate, or even to defend. Had a conflict once begun, the rage of their persecutors would have redoubled. Thus fury increasing by the reverberation of outrages, house being fired for house, and church for chapel, I am convinced, that no power under heaven could have prevented a general conflagration; and at this day London would have been a tale. But I am well informed, and the thing speaks it, that their clergy exerted their whole influence to keep their people in such a state of forbearance and quiet, as, when I look back, fills me with astonishment; but not with astonishment only. Their merits on that occasion ought not to be forgotten; nor will they, when Englishmen come to recollect themselves. I am sure it were far more proper to have called them forth, and given them the thanks of both houses of parliament, than to have suffered those worthy clergymen, and excellent citizens, to be hunted into holes and corners, whilst we are making low-minded inquisitions into the number of their people; as if a tolerating principle was never to prevail, unless we were very sure that only a few could possibly take advantage of it. But indeed we are not well recovered of our fright. Our reason, I trust, will return with our security; and this unfortunate temper will pass over like a cloud.

Gentlemen, I have now laid before you a few of the reasons for taking away the penalties of the act of 1699, and for refusing to establish them on the riotous requisition of 1780

Because I would not suffer anything which may be for your satisfaction to escape, permit me just to touch on the objections urged against our act and our resolves, and intended as a justification of the violence offered to both houses. "Parliament," they assert, "was too hasty, and they ought, in so essential and alarming a change, to have proceeded with a far greater degree of deliberation." The direct contrary. Parliament was too slow. They took four-score years to deliberate on the repeal of an act which ought not to have survived a second session. When at length, after a procrastination of near a century, the business was taken up, it proceeded in the most public manner, by the ordinary stages, and as slowly as a law so evidently right as to be resisted by none, would naturally advance. Had it been read three times in one day, we should have shown only a becoming readiness to recognize by protection the undoubted dutiful behavior of those whom we had but too long punished for offences of presumption or conjecture. But for what end was that bill to linger beyond the usual period of an unopposed measure? Was it to be delayed until a rabble in Edinburgh should dictate to the church of England what measure of persecution was fitting for her safety? Was it to be adjourned until a fanatical force could be collected in London, sufficient to frighten us out of all our ideas of policy and justice? Were we to wait for the profound lectures on the reasons of state, ecclesiastical and political, which the Protestant Association have since condescended to read to us? Or were we, seven hundred peers and commoners, the only persons ignorant of the ribald invectives which occupy the place of argument in those remonstrances, which every man of common observation had heard a thousand times over, and a thousand times over had despised? All men had before heard what they have to say; and all men at this day know what they dare to do; and I trust, all honest men are equally influenced by the one, and by the other.

But they tell us, that those of our fellow-citizens, whose chains we had a little relaxed, are enemies to liberty and our free constitution.—Not enemies, I presume, to their *own* liberty. And as to the constitution, until we give them some share in it, I do not know on what pretence we can examine into their opinions about a business in which they have no interest or concern. But after all, are we equally sure, that they are adverse to our constitution, as that our statutes are hostile and destructive to them? For my part, I have reason to believe, their opinions and inclinations in that respect are various, exactly like those of other men: and if they lean more to the crown than I, and than many of you think *we* ought, we must

remember, that he who aims at another's life, is not to be surprised if he flies into any sanctuary that will receive him. The tenderness of the executive power is the natural asylum of those upon whom the laws have declared war; and to complain that men are inclined to favor the means of their own safety, is so absurd, that one forgets the injustice in the ridicule.

I must fairly tell you, that so far as my principles are concerned (principles, that I hope will only depart with my last breath) that I have no idea of a liberty unconnected with honesty and justice. Nor do I believe, that any good constitutions of government or of freedom, can find it necessary for their security to doom any part of the people to a permanent slavery. Such a constitution of freedom, if such can be, is in effect no more than another name for the tyranny of the strongest faction; and factions in republics have been, and are, full as capable as monarchs, of the most cruel oppression and injustice. It is but too true, that the love, and even the very idea, of genuine liberty, is extremely rare. It is but too true, that there are many, whose whole scheme of freedom is made up of pride, perverseness, and insolence. They feel themselves in a state of thraldom, they imagine that their souls are cooped and cabined in, unless they have some man, or some body of men, dependent on their mercy. This desire of having some one below them, descends to those who are the very lowest of all—and a Protestant cobbler, debased by his poverty, but exalted by his share of the ruling church, feels a pride in knowing it is by his generosity alone, that the peer, whose footman's instep he measures, is able to keep his chaplain from a jail. This disposition is the true source of the passion, which many men in very humble life have taken to the American war. *Our* subjects in America; *our* colonies; *our* dependants. This lust of party power is the liberty they hunger and thirst for; and this siren song of ambition, has charmed ears, that one would have thought were never organized to that sort of music.

This way, of *proscribing the citizens by denominations and general descriptions*, dignified by the name of reason of state, and security for constitutions and commonwealths, is nothing better at bottom, than the miserable invention of an ungenerous ambition, which would fain hold the sacred trust of power, without any of the virtues or any of the energies, that give a title to it; a receipt of policy, made up of a detestable compound of malice, cowardice, and sloth. They would govern men against their will; but in that government they would be discharged from the exercise of vigilance, providence, and for

titude; and therefore, that they may sleep on their watch, they consent to take some one division of the society into partnership of the tyranny over the rest. But let government, in what form it may be, comprehend the whole in its justice, and restrain the suspicious by its vigilance; let it keep watch and ward; let it discover by its sagacity, and punish by its firmness, all delinquency against its power, whenever delinquency exists in the overt acts; and then it will be as safe as ever God and nature intended it should be. Crimes are the acts of individuals, and not of denominations; and therefore arbitrarily to class men under general descriptions, in order to proscribe and punish them in the lump for a presumed delinquency, of which perhaps but a part, perhaps none at all, are guilty, is indeed a compendious method, and saves a world of trouble about proof; but such a method, instead of being law, is an act of unnatural rebellion against the legal dominion of reason and justice; and this vice, in any constitution that entertains it, at one time or other, will certainly bring on its ruin.

We are told that this is not a religious persecution, and its abettors are loud in disclaiming all severities on account of conscience. Very fine, indeed! then let it be so! they are not persecutors; they are only tyrants. With all my heart. I am perfectly indifferent concerning the pretexts upon which we torment one another; or whether it be for the constitution of the church of England, or for the constitution of the state of England, that people choose to make their fellow-creatures wretched. When we were sent into a place of authority, you that sent us had yourselves but one commission to give. You could give us none to wrong or oppress, or even to suffer any kind of oppression or wrong, on any grounds whatsoever; not on political, as in the affairs of America; not on commercial, as in those of Ireland; not in civil, as in the laws for debt; not in religious, as in the statutes against Protestant or Catholic dissenters. The diversified but connected fabric of universal justice, is well cramped and bolted together in all its parts; and depend upon it, I never have employed, and I never shall employ, any engine of power which may come into my hands, to wrench it asunder. All shall stand, if I can help it, and all shall stand connected. After all, to complete this work, much remains to be done; much in the east, much in the west. But great as the work is, if our will be ready, our powers are not deficient.

Since you have suffered me to trouble you so much on this subject, permit me, gentlemen, to detain you a little longer. I am, indeed, most solicitous to give you perfect satisfaction. I find there are some of a better and softer nature than the

persons with whom I have supposed myself in debate, who neither think ill of the act of relief, nor by any means desire the repeal, not accusing but lamenting what was done, on account of the consequences, have frequently expressed their wish, that the late act had never been made. Some of this description, and persons of worth, I have met with in this city. They conceive, that the prejudices, whatever they might be, of a large part of the people, ought not to have been shocked; that their opinions ought to have been previously taken, and much attended to; and that thereby the late horrid scenes might have been prevented.

I confess, my notions are widely different; and I never was less sorry for any action of my life. I like the bill the better, on account of the events of all kinds that followed it. It relieved the real sufferers; it strengthened the state; and, by the disorders that ensued, we had clear evidence that there lurked a temper somewhere, which ought not to be fostered by the laws. No ill consequences whatever could be attributed to the act itself. We knew beforehand, or we were poorly instructed, that toleration is odious to the intolerant; freedom to oppressors; property to robbers; and all kinds and degrees of prosperity to the envious. We knew, that all these kinds of men would gladly gratify their evil dispositions under the sanction of law and religion, if they could: if they could not, yet, to make way to their objects, they would do their utmost to subvert all religion and all law. This we certainly knew. But knowing this, is there any reason, because thieves break in and steal, and thus bring detriment to you, and draw ruin on themselves, that I am to be sorry that you are in possession of shops, and of warehouses, and of wholesome laws to protect them? Are you to build no houses, because desperate men may pull them down upon their own heads? Or, if a malignant wretch will cut his own throat because he sees you give alms to the necessitous and deserving; shall his destruction be attributed to your charity, and not to his own deplorable madness? If we repent of our good actions, what, I pray you, is left for our faults and follies? It is not the beneficence of the laws, it is the unnatural temper which beneficence can fret and sour, that is to be lamented. It is this temper which, by all rational means, ought to be sweetened and corrected. If froward men should refuse this cure, can they vitiate anything but themselves? Does evil so react upon good, as not only to retard its motion, but to change its nature? If it can so operate, then good men will always be in the power of the bad; and virtue, by a dreadful reverse of order, must lie under perpetual subjection and bondage to vice.

As to the opinion of the people, which some think, in such

cases, is to be implicitly obeyed; near two years' tranquillity which followed the act, and its instant imitation in Ireland, proved abundantly, that the late horrible spirit was, in a great measure, the effect of insidious art, and perverse industry, and gross misrepresentation. But suppose that the dislike had been much more deliberate, and much more general, than I am persuaded it was. When we know, that the opinions of even the greatest multitudes are the standard of rectitude, I shall think myself obliged to make those opinions the masters of my conscience. But if it may be doubted whether Omnipotence itself is competent to alter the essential constitution of right and wrong, sure I am, that such *things*, as they and I, are possessed of no such power. No man carries further than I do the policy of making government pleasing to the people. But the widest range of this politic complaisance is confined within the limits of justice. I would not only consult the interests of the people, but I would cheerfully gratify their humors. We are all a sort of children that must be soothed and managed. I think I am not austere or formal in my nature. I would bear, I would even myself play my part in, any innocent buffooneries to divert them. But I never will act the tyrant for their amusement. If they will mix malice in their sports, I shall never consent to throw them any living, sentient creature whatsoever; no, not so much as a kitling, to torment.

"But if I profess all this impolitic stubbornness, I may chance never to be elected into parliament." It is certainly not pleasing to be put out of the public service. But I wish to be a member of parliament, to have my share of doing good, and resisting evil. It would therefore be absurd to renounce my objects, in order to obtain my seat. I deceive myself indeed most grossly, if I had not much rather pass the remainder of my life hidden in the recesses of the deepest obscurity, feeding my mind even with the visions and imaginations of such things, than to be placed on the most splendid throne of the universe, tantalized with a denial of the practice of all which can make the greatest situation any other than the greatest curse. Gentlemen, I have had my day. I can never sufficiently express my gratitude to you for having set me in a place, wherein I could lend the slightest help to great and laudable designs. If I have had my share, in any measure giving quiet to private property, and private conscience; if by my vote I have aided in securing to families the best possession, peace; if I have joined in reconciling kings to their subjects, and subjects to their prince; if I have assisted to loosen the foreign holdings of the citizen, and taught him to look for his protection to the laws of his country, and for his comfort to the good-will of his countrymen;—if I

have thus taken my part with the best of men in the best of their actions, I can shut the book. I might wish to read a page or two more; but this is enough for my measure.—I have not lived in vain

And now, gentlemen, on this serious day, when I come, as it were, to make up my account with you, let me take to myself some degree of honest pride on the nature of the charges that are against me. I do not here stand before you accused of venality, or of neglect of duty. It is not said, that, in the long period of my service, I have, in a single instance, sacrificed the slightest of your interests to my ambition, or to my fortune. It is not alleged, that, to gratify any anger or revenge of my own, or of my party, I have had a share in wronging or oppressing any description of men, or any one man in any description. No! the charges against me are all of one kind, that I have pushed the principles of general justice and benevolence too far; further than a cautious policy would warrant; and further than the opinions of many would go along with me. —In every accident which may happen through life, in pain, in sorrow, in depression, and distress, I will call to mind this accusation, and be comforted.

MR. BURKE'S SPEECH,

ON THE NABOB OF ARCOT'S DEBTS.

The times we live in, Mr. Speaker, have been distinguished by extraordinary events. Habituated, as we are, to uncommon combinations of men and of affairs, I believe nobody recollects anything more surprising than the spectacle of this day. The right honorable gentleman, whose conduct is now in question, formerly stood forth in this house, the prosecutor of the worthy baronet who spoke after him. He charged him with several grievous acts of malversation in office; with abuses of a public trust of a great and heinous nature. In less than two years we see the situation of parties reversed; and a singular revolution puts the worthy baronet in a fair way of returning the prosecution in a recriminatory bill of pains and penalties, grounded on a breach of public trust, relative to the government of the very same part of India. If he should undertake a bill of that kind, he will find no difficulty in conducting it with a degree of skill and vigor fully equal to all that have been exerted against him.

But the change of relation between these two gentlemen is not so striking as the total difference of their deportment under the same unhappy circumstances. Whatever the merits of the worthy baronet's defence might have been, he did not shrink from the charge. He met it with manliness of spirit, and decency of behavior. What would have been thought of him, if he had held the present language of his old accuser? When articles were exhibited against him by that right honorable gentleman, he did not think proper to tell the house that we ought to institute no inquiry, to inspect no paper, to examine no witness. He did not tell us (what at that time he might have told us with some show of reason) that our concerns in India were matters of delicacy; that to divulge anything relative to them would be mischievous to the state. He did not tell us, that those who would inquire into his proceedings were disposed to dismember the empire. He had not the presumption to say, that, for his part, having obtained, in his Indian presidency, the ultimate object of his ambition, his honor was concerned in executing with integrity the trust which had been legally committed to his charge. That others, not having been

so fortunate, could not be so disinterested; and therefore their accusations could spring from no other source than faction, and envy to his fortune.

Had he been frontless enough to hold such vain, vaporing language in the face of a grave, a detailed, a specified matter of accusation, whilst he violently resisted everything which could bring the merits of his cause to the test; had he been wild enough to anticipate the absurdities of this day; that is, had he inferred, as his late accuser has thought proper to do, that he could not have been guilty of malversation in office, for this sole and curious reason, that he had been in office; had he argued the impossibility of his abusing his power on this sole principle, that he had power to abuse, he would have left but one impression on the mind of every man who heard him, and who believed him in his senses—that in the utmost extent he was guilty of the charge.

But, Sir, leaving these two gentlemen to alternate, as criminal and accuser, upon what principles they think expedient; it is for us to consider, Whether the chancellor of the exchequer, and the treasurer of the navy, acting as a board of control, are justified by law or policy, in suspending the legal arrangements made by the court of directors, in order to transfer the public revenues to the private emolument of certain servants of the East India company, without the inquiry into the origin and justice of their claims prescribed by an act of parliament?

It is not contended that the act of parliament did not expressly ordain an inquiry. It is not asserted that this inquiry was not, with equal precision of terms, specially committed under particular regulations to the court of directors. I conceive, therefore, the board of control had no right whatsoever to intermeddle in that business. There is nothing certain in the principles of jurisprudence, if this be not undeniably true, that when a special authority is given to any persons by name, to do some particular act, no others, by virtue of general powers, can obtain a legal title to intrude themselves into that trust, and to exercise those special functions in their place. I therefore consider the intermeddling of ministers in this affair as a downright usurpation. But if the strained construction by which they have forced themselves into a suspicious office (which every man delicate with regard to character, would rather have sought constructions to avoid) were perfectly sound and perfectly legal, of this I am certain, that they cannot be justified in declining the inquiry which had been prescribed to the court of directors. If the board of control did lawfully possess the right of executing the special trust given to that court, they must take it as they found it, subject to the

very same regulations which bound the court of directors. It will be allowed that the court of directors had no authority to dispense with either the substance, or the mode of inquiry, prescribed by the act of parliament. If they had not, where, in the act, did the board of control acquire that capacity? Indeed, it was impossible they should acquire it.—What must we think of the fabric and texture of an act of parliament which should find it necessary to prescribe a strict inquisition; that should descend into minute regulations for the conduct of that inquisition; that should commit this trust to a particular description of men, and in the very same breath should enable another body, at their own pleasure, to supersede all the provisions the legislature had made, and to defeat the whole purpose, end, and object of the law? This cannot be supposed even of an act of parliament conceived by the ministers themselves, and brought forth during the delirium of the last session.

My honorable friend has told you in the speech which introduced his motion, that fortunately this question is not a great deal involved in the labyrinths of Indian detail. Certainly not. But if it were, I beg leave to assure you, that there is nothing in the Indian detail which is more difficult than in the detail of any other business. I admit, because I have some experience of the fact, that for the interior regulation of India, a minute knowledge of India is requisite. But, on any specific matter of delinquency in its government, you are as capable of judging, as if the same thing were done at your door. Fraud, injustice, oppression, peculation, engendered in India, are crimes of the same blood, family, and cast with those that are born and bred in England. To go no further than the case before us: you are just as competent to judge whether the sum of four millions sterling ought, or ought not, to be passed from the public treasury into a private pocket, without any title except the claim of the parties, when the issue of fact is laid in Madras, as when it is laid in Westminster. Terms of art, indeed, are different in different places, but they are generally understood in none. The technical style of an Indian treasury is not one jot more remote than the jargon of our own exchequer, from the train of our ordinary ideas, or the idiom of our common language. The difference, therefore, in the two cases is not in the comparative difficulty or facility of the two subjects, but in our attention to the one, and our total neglect of the other. Had this attention and neglect been regulated by the value of the several objects, there would be nothing to complain of. But the reverse of that supposition is true. The scene of the Indian abuse is distant indeed; but we must not infer, that the value of our interest in it is decreased in propor

tion as it recedes from our view. In our politics, as in our common conduct, we shall be worse than infants, if we do not put our senses under the tuition of our judgment, and effectually cure ourselves of that optical illusion which makes a briar at our nose of greater magnitude than an oak at five hundred yards distant.

I think I can trace all the calamities of this country to the single source of our not having had steadily before our eyes a general, comprehensive, well-connected, and well-proportioned view of the whole of our dominions, and a just sense of their true bearings and relations. After all its reductions, the British empire is still vast and various. After all the reductions of the house of commons (stripped as we are of our brightest ornaments, and of our most important privileges) enough are yet left to furnish us, if we please, with means of showing to the world, that we deserve the superintendence of as large an empire as this kingdom ever held, and the continuance of as ample privileges as the house of commons, in the plenitude of its power, had been habituated to assert. But if, we make ourselves too little for the sphere of our duty; if, on the contrary, we do not stretch and expand our minds to the compass of their object, be well assured, that everything about us will dwindle by degrees, until at length our concerns are shrunk to the dimensions of our minds. It is not a predilection to mean, sordid, home-bred cares, that will avert the consequences of a false estimation of our interest, or prevent the shameful dilapidation into which a great empire must fall, by mean reparations upon mighty ruins.

I confess I feel a degree of disgust, almost leading to despair, at the manner in which we are acting in the great exigencies of our country. There is now a bill in this house, appointing a rigid inquisition into the minutest detail of our offices at home. The collection of sixteen millions annually; a collection on which the public greatness, safety, and credit have their reliance; the whole order of criminal jurisprudence, which holds together society itself, have at no time obliged us to call forth such powers; no, nor anything like them. There is not a principle of the law and constitution of tnis country that is not subverted to favor the execution of that project. And for what is all this apparatus of bustle and terror? Is it because anything substantial is expected from it? No. The stir and bustle itself is the end proposed. The eye-servants of a short-sighted master will employ themselves, not on what is most essential to his affairs, but on what is nearest to his ken. Great difficulties have given a just value to economy; and our minister of the day must be an economist, whatever it may cost us

But where is he to exert his talents? At home, to be sure; for where else can he obtain a profitable credit for their exertion? It is nothing to him, whether the object on which he works under our eye be promising or not. If he does not obtain any public benefit, he may make regulations without end. Those are sure to pay in present expectation, whilst the effect is at a distance, and may be the concern of other times, and other men. On these principles he chooses to suppose (for he does not pretend more than to suppose) a naked possibility, that he shall draw some resource out of crumbs dropped from the trenchers of penury; that something shall be laid in store from the short allowance of revenue officers, overloaded with duty, and famished for want of bread; by a reduction from officers who are at this very hour ready to batter the treasury with what breaks through stone walls, for an *increase* of their appointments. From the marrowless bones of these skeleton establishments, by the use of every sort of cutting, and of every sort of fretting tool, he flatters himself that he may chip and rasp an empirical alimentary powder, to diet into some similitude of health and substance the languishing chimeras of fraudulent reformation.

Whilst he is thus employed according to his policy and to his taste, he has not leisure to inquire into those abuses in India that are drawing off money by millions from the treasures of this country, which are exhausting the vital juices from members of the state, where the public inanition is far more sorely felt than in the local exchequer of England. Not content with winking at these abuses, whilst he attempts to squeeze the laborious ill-paid drudges of English revenue, he lavishes in one act of corrupt prodigality, upon those who never served the public in any honest occupation at all, an annual income equal to two thirds of the whole collection of the revenues of this kingdom.

Actuated by the same principle of choice, he has now on the anvil another scheme, full of difficulty and desperate hazard, which totally alters the commercial relation of two kingdoms; and what end soever it shall have, may bequeath a legacy of heart-burning and discontent to one of the countries, perhaps to both, to be perpetuated to the latest posterity. This project is also undertaken on the hope of profit. It is provided, that out of some (I know not what) remains of the Irish hereditary revenue, a fund at some time, and of some sort, should be applied to the protection of the Irish trade. Here we are commanded again to task our faith, and to persuade ourselves, that out of the surplus of deficiency, out of the savings of habitual and systematic prodigality, the minister of wonders will provide support for this nation, sinking under the mountainous load

of two hundred and thirty millions of debt. But whilst we look with pain at his desperate and laborious trifling; whilst we are apprehensive that he will break his back in stooping to pick up chaff and straws, he recovers himself at an elastic bound, and with a broad-cast swing of his arms, he squanders over his Indian field a sum far greater than the clear produce of the whole hereditary revenue of the kingdom of Ireland.

Strange as this scheme of conduct in ministry is, and inconsistent with all just policy, it is still true to itself, and faithful to its own perverted order. Those who are bountiful to crimes, will be rigid to merit, and penurious to service. Their penury is even held out as a blind and cover to their prodigality. The economy of injustice is to furnish resources for the fund of corruption. Then they pay off their protection to great crimes and great criminals, by being inexorable to the paltry frailties of little men; and these modern flagellants are sure, with a rigid fidelity, to whip their own enormities on the vicarious back of every small offender.

It is to draw your attention to economy of quite another order; it is to animadvert on offences of a far different description, that my honorable friend has brought before you the motion of this day. It is to perpetuate the abuses which are subverting the fabric of your empire, that the motion is opposed. It is therefore with reason (and if he has power to carry himself through, I commend his prudence) that the right honorable gentleman makes his stand at the very outset; and boldly refuses all parliamentary information. Let him admit but one step towards inquiry, and he is undone. You must be ignorant, or he cannot be safe. But before his curtain is let down, and the shades of eternal night shall veil our eastern dominions from our view, permit me, sir, to avail myself of the means which were furnished in anxious and inquisitive times, to demonstrate out of this single act of the present minister, what advantages you are to derive from permitting the greatest concern of this nation to be separated from the cognizance, and exempted even out of the competence, of parliament. The greatest body of your revenue, your most numerous armies, your most important commerce, the richest sources of your public credit, (contrary to every idea of the known settled policy of England) are on the point of being converted into a mystery of state. You are going to have one half of the globe hid even from the common liberal curiosity of an English gentleman. Here a grand revolution commences. Mark the period, and mark the circumstances. In most of the capital changes that are recorded in the principles and system of any government, a public benefit of some kind or other has been

pretended. The revolution commenced in something plausible, in something which carried the appearance at least of punishment of delinquency, or correction of abuse. But here, in the very moment of the conversion of a department of British government into an Indian mystery, and in the very act in which the change commences, a corrupt, private interest is set up in direct opposition to the necessities of the nation. A diversion is made of millions of the public money from the public treasury to a private purse. It is not into secret negotiations for war, peace, or alliance, that the house of commons is forbidden to inquire. It is a matter of account; it is a pecuniary transaction; it is the demand of a suspected steward upon ruined tenants and an embarrassed master, that the commons of Great Britain are commanded not to inspect. The whole tenor of the right honorable gentleman's argument is consonant to the nature of his policy. The system of concealment is fostered by a system of falsehood. False facts, false colors, false names of persons and things, are its whole support.

Sir, I mean to follow the right honorable gentleman over that field of deception, clearing what he has purposely obscured, and fairly stating what it was necessary for him to misrepresent. For this purpose, it is necessary you should know with some degree of distinctness, a little of the locality, the nature. the circumstances, the magnitude of the pretended debts on which this marvellous donation is founded, as well as of the persons from whom and by whom it is claimed.

Madras, with its dependencies, is the second (but with a long interval, the second) member of the British empire in the east. The trade of that city, and of the adjacent territory, was, not very long ago, among the most flourishing in Asia. But since the establishment of the British power, it has wasted away under a uniform, gradual decline; insomuch that in the year 1779 not one merchant of eminence was to be found in the whole country. During this period of decay, about six hundred thousand sterling pounds a year have been drawn off by English gentlemen on their private account, by the way of China alone. If we add four hundred thousand, as probably remitted through other channels, and in other mediums, that is, in jewels, gold, and silver directly brought to Europe, and in bills upon the British and foreign companies, you will scarcely think the matter over-rated. If we fix the commencement of this extraction of money from the Carnatic at a period no earlier than the year 1760, and close it in the year 1780, it probably will not amount to a great deal less than twenty millions of money.

During the deep silent flow of this steady stream of wealth

which set from India into Europe, it generally passed on with no adequate observation; but happening at some periods to meet rifts of rocks that checked its course, it grew more noisy and attracted more notice. The pecuniary discussions caused by an accumulation of part of the fortunes of their servants in a debt from the nabob of Arcot, was the first thing which very particularly called for, and long engaged, the attention of the court of directors. This debt amounted to eight hundred and eighty thousand pounds sterling, and was claimed, for the greater part, by English gentlemen, residing at Madras. This grand capital, settled at length by order at ten *per cent.*, afforded an annuity of eighty-eight thousand pounds.

Whilst the directors were digesting their astonishment at this information, a memorial was presented to them from three gentlemen, informing them that their friends had lent likewise, to merchants of Canton in China, a sum of not more than one million sterling. In this memorial they called upon the company for their assistance and interposition with the Chinese government for the recovery of the debt. This sum lent to Chinese merchants, was at 24 *per cent.*, which would yield, if paid, an annuity of two hundred and forty thousand pounds.

Perplexed as the directors were with these demands, you may conceive, Sir, that they did not find themselves very much disembarrassed, by being made acquainted that they must again exert their influence for a new reserve of the happy parsimony of their servants, collected into a second debt from the nabob of Arcot, amounting to two millions four hundred thousand pounds, settled at an interest of 12 *per cent.* This is known by the name of the Consolidation of 1777, as the former of the nabob's debts was by the title of the Consolidation of 1767. To this was added, in a separate parcel, a little reserve called the Cavalry debt, of one hundred and sixty thousand pounds, at the same interest. The whole of these four capitals, amounting to four millions four hundred and forty thousand pounds, produced at their several rates, annuities amounting to six hundred and twenty-three thousand pounds a year; a good deal more than one third of the clear land-tax of England, at four shillings in the pound; a good deal more than double the whole annual dividend of the East India company, the nominal masters to the proprietors in these funds. Of this interest, three hundred and eighty-three thousand two hundred pounds a year stood chargeable on the public revenues of the Carnatic.

Sir, at this moment, it will not be necessary to consider the various operations which the capital and interest of this debt have successively undergone. I shall speak to these operations

when I come particularly to answer the right honorable gentleman on each of the heads, as he has thought proper to divide them. But this was the exact view in which these debts first appeared to the court of directors, and to the world. It varied afterwards. But it never appeared in any other than a most questionable shape. When this gigantic phantom of debt first appeared before a young minister, it naturally would have justified some degree of doubt and apprehension. Such a prodigy would have filled any common man with superstitious fears. He would exorcise that shapeless, nameless form, and by everything sacred would have adjured it to tell by what means a small number of slight individuals, of no consequence or situation, possessed of no lucrative offices, without the command of armies, or the known administration of revenues, without profession of any kind, without any sort of trade sufficient to employ a pedlar, could have, in a few years (as to some even in a few months) amassed treasures equal to the revenues of a respectable kingdom? Was it not enough to put these gentlemen, in the noviciate of their administration, on their guard, and to call upon them for a strict inquiry (if not to justify them in a reprobation of those demands without any inquiry at all) that when all England, Scotland, and Ireland had for years been witness to the immense sums laid out by the servants of the company in stocks of all denominations, in the purchase of lands, in the buying and building of houses, in the securing quiet seats in parliament, or in the tumultuous riot of contested elections, in wandering throughout the whole range of those variegated modes of inventive prodigality, which sometimes have excited our wonder, sometimes roused our indignation; that after all India was four millions still in debt to *them*? India in debt to *them*! For what? Every debt for which an equivalent of some kind or other is not given, is on the face of it a fraud. What is the equivalent they have given? What equivalent had they to give? What are the articles of commerce, or the branches of manufacture, which those gentlemen have carried hence to enrich India? What are the sciences they beamed out to enlighten it? What are the arts they introduced to cheer and to adorn it? What are the religious, what the moral institutions they have taught among that people as a guide to life, or as a consolation when life is to be no more, that there is an eternal debt, a debt "still paying, still to owe," which must be bound on the present generation in India, and entailed on their mortgaged posterity for ever? A debt of millions, in favor of a set of men, whose names, with few exceptions, are either buried in the obscurity of their origin and alents, or dragged into light by the enormity of their crimes?

If this body of private claims of debt, real or devised, were a question, as it is falsely pretended, between the nabob of Arcot, as debtor, and Paul Benfield and his associates, as creditors, I am sure I should give myself but little trouble about it If the hoards of oppression were the fund for satisfying the claims of bribery and peculation, who would wish to interfere between such litigants? If the demands were confined to what might be drawn from the treasures which the company's records uniformly assert that the nabob is in possession of; or if he had mines of gold, or silver, or diamonds (as we know that he has none) these gentlemen might break open his hoards, or dig in his mines, without any disturbance from me. But the gentlemen on the other side of the house know as well as I do, and they dare not contradict me, that the nabob of Arcot and his creditors are not adversaries, but collusive parties, and that the whole transaction is under a false color and false names. The litigation is not, nor ever has been, between their rapacity and his hoarded riches. No; it is between him and them combining and confederating on one side, and the public revenues, and the miserable inhabitants of a ruined country, on the other. These are the real plaintiffs and the real defendants in the suit. Refusing a shilling from his hoards for the satisfaction of any demand, the nabob of Arcot is always ready, nay, he earnestly, and with eagerness and passion, contends for delivering up to these pretended creditors his territory and his subjects. It is therefore not from treasuries and mines, but from the food of your unpaid armies, from the blood withheld from the veins, and whipt out of the backs of the most miserable of men, that we are to pamper extortion, usury, and peculation, under the false names of debtors and creditors of state.

The great patron of these creditors (to whose honor they ought to erect statues) the right honorable gentleman, in stating the merits which recommended them to his favor, has ranked them under three grand divisions. The first, the creditors of 1767; then the creditors of the cavalry loan; and lastly, the creditors of the loan in 1777. Let us examine them one by one, as they pass in review before us.

The first of these loans, that of 1767, he insists, had an indisputable claim upon the public justice. The creditors, he affirms, lent their money publicly; they advanced it with the express knowledge and approbation of the company; and it was contracted at the moderate interest of ten per cent. In this loan the demand is, according to him, not only just, but meritorious in a very high degree; and one would be inclined to believe he thought so, because he has put it last in the provision he has made for these claims.

I readily admit this debt to stand the fairest of the whole, for whatever may be my suspicions concerning a part of it, I can convict it of nothing worse than the most enormous usury But I can convict upon the spot the right honorable gentleman of the most daring misrepresentation in every one fact, without any exception, that he has alleged in defence of this loan, and of his own conduct with regard to it. I will show you that this debt was never contracted with the knowledge of the company; that it had not their approbation; that they received the first intelligence of it with the utmost possible surprise, indignation, and alarm.

So far from being previously apprized of the transaction from its origin, that it was two years before the court of directors obtained any official intelligence of it. "The dealings of the servants with the nabob were concealed from the first, until they were found out" (says Mr. Sayer, the company's counsel) "by the report of the country." The presidency, however, at last thought proper to send an official account. On this the directors tell them, "to your great reproach it has been *concealed from us.* We cannot but suspect this debt to have had its weight in *your proposed aggrandizement of Mahomed Ali* [the nabob of Arcot]; but whether it has or has not, certain it is, you are guilty of a high breach of duty in *concealing* it from us."

These expressions, concerning the ground of the transaction, its effect, and its clandestine nature, are in the letters, bearing date March 17, 1769. After receiving a more full account on the 23d March, 1770, they state, that "Messrs. John Pybus, John Call, and James Bourchier, as trustees for themselves and others of the nabob's private creditors, had proved a deed of assignment upon the nabob and his son of FIFTEEN districts of the nabob's country, the revenues of which yielded, in time of peace, eight lacs of pagodas [320,000*l.* sterling] annually; and likewise an assignment of the yearly tribute paid the nabob from the rajah of Tanjore, amounting to four lacks of rupees [40,000*l.*]" The territorial revenue, at that time possessed by these gentlemen, without the knowledge or consent of their masters, amounted to three hundred an sixty thousand pounds sterling annually. They were making rapid strides to the entire possession of the country, when the directors, whom the right honorable gentleman states as having authorized these proceedings, were kept in such profound ignorance of this royal acquisition of territorial revenue by their servants, that in the same letter they say, "this assignment was obtained by *three of the members of your board*, in January 1767, yet we do not find the *least trace* of it upon your consultations, until August 1768, nor do any of your letters to us afford any information relative to

such transactions, till the 1st of November, 1768. By your last letters of the 8th of May, 1769, you bring the whole proceedings to light in one view."

As to the previous knowledge of the company, and its sanction to the debts, you see that this assertion of that knowledge is utterly unfounded. But did the directors approve of it, and ratify the transaction when it was known? The very reverse. On the same third of March, the directors declare, "upon an *impartial examination* of the whole conduct of our late governor and council of Fort George [Madras] and on the fullest consideration, that the said governor and council have, *in notorious violation of the trust* reposed in them, manifestly *preferred the interest of private individuals to that of the company*, in permitting the assignment of the revenues of certain valuable districts, to a very large amount, from the nabob to individuals"—and then highly aggravating their crimes, they add: "We order and direct that you do examine, in the most impartial manner, all the above-mentioned transactions; and that you *punish* by suspension, degradation, dismission or otherwise, as to you shall seem meet, all and every such servant or servants of the company, who may by you be found guilty of any of the above offences." "We had (say the directors) the mortification to find that the servants of the company, who had been *raised, supported, and owed their present opulence to the advantages* gained in such service, have in this instance most *unfaithfully betrayed* their trust, *abandoned* the company's interest, and *prostituted* its influence to accomplish the *purposes of individuals, whilst the interest of the company is almost wholly neglected*, and payment to us rendered extremely precarious." Here then is the rock of approbation of the court of directors, on which the right honorable gentleman says this debt was founded. Any member, Mr. Speaker, who should come into the house, on my reading this sentence of condemnation of the court of directors against their unfaithful servants, might well imagine that he had heard a harsh, severe, unqualified invective against the present ministerial board of control. So exactly do the proceedings of the patrons of this abuse tally with those of the actors in it, that the expressions used in the condemnation of the one, may serve for the reprobation of the other, without the change of a word.

To read you all the expressions of wrath and indignation fulminated in this dispatch against the meritorious creditors of the right honorable gentleman, who, according to him, have been so fully approved by the company, would be to read the whole.

The right honorable gentleman, with an address peculiar to

himself, every now and then slides in the presidency of Madras, as synonymous to the company. That the presidency did approve the debt, is certain. But the right honorable gentleman, as prudent in suppressing, as skilful in bringing forward his matter, has not chosen to tell you that the presidency were the very persons guilty of contracting this loan; creditors themselves, and agents and trustees for all the other creditors. For this, the court of directors accuse them of breach of trust; and for this, the right honorable gentleman considers them as perfectly good authority for those claims. It is pleasant to hear a gentleman of the law quote the approbation of creditors as an authority for their own debt.

How they came to contract the debt to themselves, how they came to act as agents for those whom they ought to have controlled, is for your inquiry. The policy of this debt was announced to the court of directors, by the very persons concerned in creating it. "Till very lately," (say the presidency) "the nabob placed his dependence on the company. Now he has been taught by ill advisers, that an interest out of doors may stand him in good stead. He has been made to believe that *his private creditors have power and interest to overrule the court of directors.*" The nabob was not misinformed. The private creditors instantly qualified a vast number of votes; and having made themselves masters of the court of proprietors, as well as extending a powerful cabal in other places as important, they so completely overturned the authority of the court of directors at home and abroad, that this poor baffled government was soon obliged to lower its tone. It was glad to be admitted into partnership with its own servants. The court of directors establishing the debt which they had reprobated as a breach of trust, and which was planned for the subversion of their authority, settled its payments on a par with those of the public; and even so, were not able to obtain peace or even equality in their demands. All the consequences lay in a regular and irresistible train. By employing their influence for the recovery of this debt, their orders, issued in the same breath, against creating new debts, only animated the strong desires of their servants to this prohibited prolific sport, and it soon produced a swarm of sons and daughters, not in the least degenerated from the virtue of their parents.

From that moment, the authority of the court of directors expired in the Carnatic, and everywhere else. "Every man," says the presidency, "who opposes the government and its measures, finds an immediate countenance from the nabob; even our discarded officers, however unworthy, are received into the nabob's service." It was indeed a matter of no won

derful sagacity to determine whether the court of directors, with their miserable salaries to their servants, of four or five hundred pounds a year, or the distributor of millions, was most likely to be obeyed. It was an invention beyond the imagination of all the speculatists of our speculating age, to see a government quietly settled in one and the same town, composed of two distinct members; one to pay scantily for obedience, and the other to bribe high for rebellion and revolt.

The next thing which recommends this particular debt to the right honorable gentleman is, it seems, the moderate interest of ten *per cent.* It would be lost labor to observe on this assertion. The nabob, in a long apologetic letter for the transaction between him and the body of the creditors, states the fact, as I shall state it to you. In the accumulation of this debt, the first interest paid, was from thirty to thirty-six *per cent.*, it was then brought down to twenty-five *per cent.*, at length it was reduced to twenty; and there it found its rest. During the whole process, as often as any of these monstrous interests fell into an arrear (into which they were continually falling) the arrear, formed into a new capital, was added to the old, and the same interest of twenty *per cent.* accrued upon both. The company, having got some scent of the enormous usury which prevailed at Madras, thought it necessary to interfere, and to order all interests to be lowered to ten *per cent.* This order, which contained no exception, though it by no means pointed particularly to this class of debts, came like a thunderclap on the nabob. He considered his political credit as ruined; but to find a remedy to this unexpected evil, he again added to the old principal twenty *per cent.* interest accruing for the last year. Thus a new fund was formed; and it was on that accumulation of various principals, and interests heaped upon interests, not on the sum originally lent, as the right honorable gentleman would make you believe, that ten *per cent.* was settled on the whole.

When you consider the enormity of the interest at which these debts were contracted, and the several interests added to the principal, I believe you will not think me too sceptical, if I should doubt, whether for this debt of 880,000*l.* the nabob ever saw 100,000*l.* in real money. The right honorable gentleman suspecting, with all his absolute dominion over fact, that he never will be able to defend even this venerable patriarchal job, though sanctified by its numerous issue, and hoary with prescriptive years, has recourse to recrimination, the last resource of guilt. He says that this loan of 1767 was provided for in Mr. Fox's India bill; and judging of others by his own nature and principles, he more than insinuates, that

this provision was made, not from any sense of merit in the claim, but from partiality to general Smith, a proprietor, and an agent for that debt. If partiality could have had any weight against justice and policy, with the then ministers and their friends, general Smith had titles to it. But the right honorable gentleman knows as well as I do, that general Smith was very far from looking on himself as partially treated in the arrangements of that time; indeed what man dared to hope for private partiality in that sacred plan for relief to nations?

It is not necessary that the right honorable gentleman should sarcastically call that time to our recollection. Well do I remember every circumstance of that memorable period. God forbid I should forget it. O illustrious disgrace! O victorious defeat! may your memorial be fresh and new to the latest generations! May the day of that generous conflict be stamped in characters never to be cancelled or worn out from the records of time! Let no man hear of us, who shall not hear that in a struggle against the intrigues of courts, and the perfidious levity of the multitude, we fell in the cause of honor, in the cause of our country, in the cause of human nature itself! But if fortune should be as powerful over fame, as she has been prevalent over virtue, at least our conscience is beyond her jurisdiction My poor share in the support of that great measure, no man shall ravish from me. It shall be safely lodged in the sanctuary of my heart; never, never to be torn from thence, but with those holds that grapple it to life.

I say, I well remember that bill, and every one of its honest and its wise provisions. It is not true that this debt was ever protected or enforced, or any revenue whatsoever set apart for it. It was left in that bill just where it stood; to be paid or not to be paid out of the nabob's private treasures, according to his own discretion. The company had actually given it their sanction; though always relying for its validity on the sole security of the faith of him, who, without their knowledge or consent, entered into the original obligation. It had no other sanction; it ought to have had no other. So far was Mr. Fox's bill for providing *funds* for it, as this ministry have wickedly done for this, and for ten times worse transactions, out of the public estate, that an express clause immediately preceded, positively forbidding any British subject from receiving assignments upon any part of the territorial revenue, on any pretence whatsoever.

You recollect, Mr. Speaker, that the chancellor of the exchequer strongly professed to retain every part of Mr. Fox's bill, which was intended to prevent abuse; but in *his* India bill, which (let me do justice) is as able and skilful a performance

for its own purposes, as ever issued from the wit of man, premeditating this iniquity—*hoc ipsum ut strueret Trojamque aperiret Achivis*, expunged this essential clause, broke down the fence which was raised to cover the public property against the rapacity of his partisans, and thus levelling every obstruction, he made a firm, broad highway for sin and death, for usury and oppression, to renew their ravages throughout the devoted revenues of the Carnatic.

The tenor, the policy, and the consequences of this debt of 1767, are, in the eyes of ministry, so excellent, that its merits are irresistible; and it takes the lead to give credit and countenance to all the rest. Along with this chosen body of heavy-armed infantry, and to support it, in the line, the right honorable gentleman has stationed his corps of black cavalry. If there be any advantage between this debt and that of 1769, according to him the cavalry debt has it. It is not a subject of defence; it is a theme of panegyric. Listen to the right honorable gentleman, and you will find it was contracted to save the country; to prevent mutiny in armies; to introduce economy in revenues; and for all these honorable purposes, it originated at the express desire, and by the representative authority, of the company itself.

First, let me say a word to the authority. This debt was contracted not by the authority of the company, not by its representatives (as the right honorable gentleman has the unparalleled confidence to assert), but in the ever memorable period of 1777, by the usurped power of those who rebelliously, in conjunction with the nabob of Arcot, had overturned the lawful government of Madras. For that rebellion, this house unanimously directed a public prosecution. The delinquents, after they had subverted government, in order to make themselves a party to support them in their power, are universally known to have dealt jobs about to the right and to the left, and to any who were willing to receive them. This usurpation, which the right honorable gentleman well knows, was brought about by and for the great mass of the sepretended debts, is the authority which is set up by him to represent the company; to represent that company which, from the first moment of their hearing of this corrupt and fraudulent transaction to this hour, have uniformly disowned and disavowed it.

So much for the authority. As to the facts, partly true, and partly colorable, as they stand recorded, they are in substance these.—The nabob of Arcot, as soon as he had thrown off the superiority of this country by means of these creditors, kept up a great army which he never paid. Of course, his soldiers were generally in a state of mutiny. The usurping council sa

that they labored hard with their master the nabob, to persuade him to reduce these mutinous and useless troops. He consented but as usual, pleaded inability to pay them their arrears. Here was a difficulty. The nabob had no money; the company had no money; every public supply was empty. But there was one resource which no season has ever yet dried up in that climate. The *soucars* were at hand; that is, private English money-jobbers offered their assistance. Messieurs Taylor, Majendie and Call, proposed to advance the small sum of 160,000*l.* to pay off the nabob's black cavalry, provided the company's authority was given for their loan. This was the great point of policy always aimed at, and pursued through a hundred devices, by the servants at Madras. The presidency, who themselves had no authority for the functions they presumed to exercise, very readily gave the sanction of the company to those servants who knew that the company, whose sanction was demanded, had positively prohibited all such transactions.

However, so far as the reality of the dealing goes, all is hitherto fair and plausible; and here the right honorable gentleman concludes, with commendable prudence, his account of the business. But here it is I shall beg leave to commence my supplement: for the gentleman's discreet modesty has led him to cut the thread of the story somewhat abruptly. One of the most essential parties is quite forgotten. Why should the episode of the poor nabob be omitted? When that prince chooses it, nobody can tell his story better. Excuse me, if I apply again to my book, and give it you from the first hand; from the nabob himself.

"Mr. Stratton became acquainted with this, and got Mr. Taylor and others to lend me four lacs of pagodas towards discharging the arrears of pay of my troops. Upon this, I wrote a letter of thanks to Mr. Stratton; and upon the faith of this money being paid immediately, I ordered many of my troops to be discharged by a certain day, and lessened the number of my servants. Mr. Taylor, &c. some time after acquainted me, that they had no ready money, but they would grant teeps payable in four months. This astonished me; for I did not know what might happen, when the sepoys were dismissed from my service. I begged of Mr. Taylor and the others to pay this sum to the officers of my regiments at the time they mentioned; and desired the officers, at the same time, to pacify and persuade the men belonging to them, that their pay would be given to them *at the end of four months;* and that till those arrears were discharged, their pay should be continued to them. *Two years* are nearly expired since that time, but Mr. Taylor has not yet entirely discharged the arrears of

those troops, and I am obliged to continue their pay from that time till this. I hoped to have been able, by this expedient, to have lessened the number of my troops, and discharged the arrears due to them, considering the trifle of interest to Mr. Taylor, and the others, as no great matter; but instead of this, *I am oppressed with the burthen of pay due to those troops; and the interest, which is going on to Mr. Taylor from the day the terms were granted to him.*" What I have read to you is an extract of a letter from the nabob of the Carnatic to governor Rumbold, dated the 22d, and received the 24th of March, 1779.

Suppose his highness not to be well broken in to things of this kind, it must indeed surprise so known and established a bond-vender, as the nabob of Arcot, one who keeps himself the largest bond warehouse in the world, to find that he was now to receive in kind; not to take money for his obligations, but to give his bond in exchange for the bond of Messieurs Taylor, Majendie and Call, and to pay, besides, a good smart interest, legally 12 *per cent.* [in reality perhaps twenty, or twenty-four *per cent.*] for this exchange of paper. But his troops were not to be so paid, or so disbanded. They wanted bread, and could not live by cutting and shuffling of bonds. The nabob still kept the troops in service, and was obliged to continue, as you have seen, the whole expense, to exonerate himself, from which he became indebted to the soucars.

Had it stood here, the transaction would have been of the most audacious strain of fraud and usury, perhaps ever before discovered, whatever might have been practised and concealed. But the same authority (I mean the nabob's) brings before you something if possible more striking. He states, that for this their paper, he immediately handed over to these gentlemen something very different from paper; that is, the receipt of a territorial revenue, of which it seems they continued as long in possession as the nabob himself continued in possession of anything. Their payments, therefore, not being to commence before the end of four months, and not being completed in two years, it must be presumed (unless they proved the contrary) that their payments to the nabob were made out of the revenues they had received from his assignment. Thus, they condescended to accumulate a debt of 160,000*l.* with an interest of 12 *per cent.* in compensation for a lingering payment to the nabob of 160,000*l.* of his own money.

Still we have not the whole; about two years after the assignment of those territorial revenues to these gentlemen, the nabob receives a remonstrance from his chief manager, in a principal province, of which this is the tenor:—"The *entire* revenue of those districts is by your highness's order set apart

to discharge the tunkaws [assignments] granted to the Europeans. The gomastahs [agents] of Mr. Taylor, to Mr. De Fries, are there in order to collect those tunkaws; and as they receive *all* the revenue that is collected, your highness's troops have *seven or eight months' pay due*, which they cannot receive, and are thereby reduced to the greatest *distress. In such times*, it is highly necessary to provide for the sustenance of the troops, that they may be ready to exert themselves in the service of your highness."

Here, Sir, you see how these causes and effects act upon one another. One body of troops mutinies for want of pay; a debt is contracted to pay them; and they still remain unpaid. A territory destined to pay other troops, is assigned for this debt; and these other troops fall into the same state of indigence and mutiny with the first. Bond is paid by bond; arrear is turned into new arrear; usury engenders new usury; mutiny suspended in one quarter, starts up in another; until all the revenues and all the establishments are entangled into one inextricable knot of confusion, from which they are only disengaged by being entirely destroyed. In that state of confusion, in a very few months after the date of the memorial I have just read to you, things were found, when the nabob's troops, famished to feed English soucars, instead of defending the country, joined the invaders, and deserted in entire bodies to Hyder Ali.

The manner in which this transaction was carried on, shows that good examples are not easily forgot, especially by those who are bred in a great school. One of those splendid examples, give me leave to mention at a somewhat more early period, because one fraud furnishes light to the discovery of another, and so on, until the whole secret of mysterious iniquity burst upon you in a blaze of detection. The paper I shall read you, is not on record. If you please, you may take it on my word. It is a letter written from one of undoubted information in Madras, to Sir John Clavering, describing the practice that prevailed there, whilst the company's allies were under sale, during the time of governor Winch's administration.

"—— One mode," says Clavering's correspondent, "of amassing money at the nabob's cost is curious. He is generally in arrears to the company. Here the governor, being cash-keeper, is generally on good terms with the banker, who manages matters thus: The governor presses the nabob for the balance due from him; the nabob flies to his banker for relief; the banker engages to pay the money, and grants his notes accordingly, which he puts in the cash-book as ready

money; the nabob pays him an interest for it at *two and three per cent. per mensem*, till the tunkaws he grants on the particular districts for it are paid. Matters in the mean time are so managed, that there is no call for this money for the company's service, till the tunkaws become due. By this means not a cash is advanced by the banker, though he receives a heavy interest from the nabob, which is divided as lawful spoil."

Here, Mr. Speaker, you have the whole art and mystery, the true freemason secret of the profession of *soucaring;* by which a few innocent, inexperienced young Englishmen, such as Mr. Paul Benfield, for instance, without property upon which any one would lend to themselves a single shilling, are enabled at once to take provinces in mortgage, to make princes their debtors, and to become creditors for millions.

But it seems the right honorable gentleman's favorite soucar cavalry, have proved the payment before the Mayor's court at Madras! Have they so? Why then defraud our anxiety and their characters of that proof? Is it not enough that the charges which I have laid before you, have stood on record against these poor injured gentlemen for eight years? Is it not enough that they are in print by the orders of the East India company for five years? After these gentlemen have borne all the odium of this publication, and all the indignation of the directors, with such unexampled equanimity, now that they are at length stimulated into feeling, are you to deny them their just relief? But will the right honorable gentleman be pleased to tell us, how they came not to give this satisfaction to the court of directors, their lawful masters, during all the eight years of this litigated claim? Were they not bound, by every tie that can bind man, to give them this satisfaction? This day, for the first time, we hear of the proofs. But when were these proofs offered? In what cause? Who were the parties? Who inspected? Who contested this belated account? Let us see something to oppose to the body of record which appears against them. The mayor's court! the mayor's court! Pleasant! Does not the honorable gentleman know, that the first corps of creditors [the creditors of 1767] stated it as a sort of hardship to them, that they could not have justice at Madras, from the impossibility of their supporting their claims in the mayor's court? Why? because, say they, the members of that court were themselves creditors and therefore could not sit as judges. Are we ripe to say, that no creditor under similar circumstances was member of the court, when the payment which is the ground of this cavalry debt was put in proof? Nay, are we not in a manner

compelled to conclude, that the court was so constituted, when we know there is scarcely a man in Madras, who has not some participation in these transactions? It is a shame to hear such proofs mentioned, instead of the honest, vigorous scrutiny which the circumstances of such an affair so indispensably call for.

But his majesty's ministers, indulgent enough to other scrutinies, have not been satisfied with authorizing the payment of this demand without such inquiry as the act has prescribed; but they have added the arrear of twelve *per cent.* interest, from the year 1777 to the year 1784, to make a new capital, raising thereby 160 to 294,000*l.* Then they charge a new twelve *per cent.* on the whole from that period, for a transaction, in which it will be a miracle if a single penny will be ever found really advanced from the private stock of the pretended creditors.

In this manner, and at such an interest, the ministers have thought proper to dispose of 294,000*l.* of the public revenues for what is called the *cavalry loan.* After dispatching this, the right honorable gentleman leads to battle his last grand division, the consolidated debt of 1777. But having exhausted all his panegyric on the two first, he has nothing at all to say in favor of the last. On the contrary, he admits that it was contracted in defiance of the company's orders, without even the pretended sanction of any pretended representatives. Nobody, indeed, has yet been found hardy enough to stand forth avowedly in its defence. But it is little to the credit of the age, that what has not plausibility enough to find an advocate, has influence enough to obtain a protector. Could any man expect to find that protector anywhere? But what must every man think, when he finds that protector in the chairman of the committee of secrecy, who had published to the house, and to the world, the facts that condemn these debts—the orders that forbid the incurring of them—the dreadful consequences which attended them. Even in his official letter, when he tramples on his parliamentary report, yet his general language is the same. Read the preface to this part of this ministerial arrangement, and you would imagine that this debt was to be crushed, with all the weight of indignation which could fall from a vigilant guardian of the public treasury, upon those who attempted to rob it. What must be felt by every man who has feeling, when, after such a thundering preamble of condemnation, this debt is ordered to be paid without any sort of inquiry into its authenticity? without a single step taken to settle even the amount of the demand? without an attempt so much as to ascertain the real persons claiming a sum, which

rises in the accounts from one million three hundred thousand pounds sterling to two millions four hundred thousand pounds principal money? without an attempt made to ascertain the proprietors, of whom no list has ever yet been laid before the court of directors; of proprietors, who are known to be in a collusive shuffle, by which they never appear to be the same in any two lists, handed about for their own particular purposes?

My honorable friend who made you the motion, has sufficiently exposed the nature of this debt. He has stated to you that *its own agents* in the year 1781, in the arrangement *they proposed* to make at Calcutta, were satisfied to have twenty-five *per cent.* at once struck off from the capital of a great part of this debt; and prayed to have a provision made for this reduced principal, without any interest at all. This was an arrangement of their *own*, an arrangement made by those who best knew the true constitution of their own debt; who knew how little favor it merited, and how little hopes they had to find any persons in authority abandoned enough to support it as it stood.

But what corrupt men, in the fond imaginations of a sanguine avarice, had not the confidence to propose, they have found a chancellor of the exchequer in England hardy enough to undertake for them. He has cheered their drooping spirits. He has thanked the peculators for not despairing of their commonwealth. He has told them they were too modest. He has replaced the twenty-five *per cent.* which, in order to lighten themselves, they had abandoned in their conscious terror. Instead of cutting off the interest, as they had themselves consented to do, with the fourth of the capital, he has added the whole growth of four years' usury of twelve *per cent.* to the first overgrown principal; and has again grafted on this meliorated stock a perpetual annuity of six *per cent.* to take place from the year 1781. Let no man hereafter talk of the decaying energies of nature. All the acts and monuments in the records of peculation; the consolidated corruption of ages; the patterns of exemplary plunder in the heroic times of Roman iniquity, never equalled the gigantic corruption of this single act. Never did Nero, in all the insolent prodigality of despotism, deal out to his pretorian guards a donation fit to be named with the largess showerod down by the bounty of our chancellor of the exchequer on the faithful band of his Indian sepoys.

The right honorable gentleman lets you freely and voluntarily into the whole transaction. So perfectly has his conduct confounded his understanding, that he fairly tells you, that through the course of the whole business he has never conferred with any but the agents of the pretended creditors. After this, do you

want more to establish a secret understanding with the parties? to fix, beyond a doubt, their collusion and participation in a common fraud?

If this were not enough, he has furnished you with other presumptions that are not to be shaken. It is one of the known indications of guilt to stagger and prevaricate in a story; and to vary in the motives that are assigned to conduct. Try these ministers by this rule. In their official dispatch, they tell the presidency of Madras, that they have established the debt for two reasons; first, because the nabob (the party indebted) does not dispute it; secondly, because it is mischievous to keep it longer afloat; and that the payment of the European creditors will promote circulation in the country. These two motives (for the plainest reasons in the world) the right honorable gentleman has this day thought fit totally to abandon. In the first place, he rejects the authority of the nabob of Arcot. It would indeed be pleasant to see him adhere to this exploded testimony. He next, upon grounds equally solid, abandons the benefits of that circulation, which was to be produced by drawing out all the juices of the body. Laying aside, or forgetting, these pretences of his dispatch, he has just now assumed a principle totally different, but to the full as extraordinary. He proceeds upon a supposition, that many of the claims may be fictitious. He then finds, that in a case where many valid and many fraudulent claims are blended together, the best course for their discrimination is indiscriminately to establish them all. He trusts (I suppose) as there may not be a fund sufficient for every description of creditors, that the best warranted claimants will exert themselves in bringing to light those debts which will not bear an inquiry. What he will not do himself, he is persuaded will be done by others; and for this purpose he leaves to any person a general power of excepting to the debt. This total change of language, and prevarication in principle, is enough, if it stood alone, to fix the presumption of unfair dealing. His dispatch assigns motives of policy, concord, trade, and circulation. His speech proclaims discord and litigations; and proposes, as the ultimate end, detection.

But he may shift his reasons, and wind and turn as he will—confusion waits him at all his doubles. Who will undertake this detection? Will the nabob? But the right honorable gentleman has himself this moment told us, that no prince of the country can by any motive be prevailed upon to discover any fraud that is practised upon him by the company's servants. He says what (with the exception of the complaint against the cavalry loan) all the world knows to be true: and without that prince's concurrence, what evidence can be had of the fraud of any the

smallest of these demands? The ministers never authorized any person to enter into his exchequer, and to search his records. Why then this shameful and insulting mockery of a pretended contest? Already contests for a preference have arisen among these rival bond creditors. Has not the company itself struggled for a preference for years, without any attempt at detection of the nature of those debts with which they contended? Well is the nabob of Arcot attended to, in the only specific complaint he has ever made. He complained of unfair dealing in the cavalry loan. It is fixed upon him with interest on interest; and this loan is excepted from all power of ligitation.

This day, and not before, the right honorable gentleman thinks that the general establishment of all claims is the surest way of laying open the fraud of some of them. In India this is a reach of deep policy. But what would be thought of this mode of acting on a demand upon the treasury in England? Instead of all this cunning, is there not one plain way open, that is, to put the burthen of the proof on those who make the demand? Ought not ministry to have said to the creditors: "The person who admits your debt stands excepted to as evidence; he stands charged as a collusive party, to hand over the public revenues to you for sinister purposes? You say, you have a demand of some millions on the Indian treasury; prove that you have acted by lawful authority; prove at least that your money has been *bona fide* advanced; entitle yourself to my protection, by the fairness and fullness of the communications you make." Did an honest creditor ever refuse that reasonable and honest test?

There is little doubt, that several individuals have been seduced by the purveyors to the nabob of Arcot to put their money (perhaps the whole of honest and laborious earnings) into their hands, and that at such high interest, as, being condemned at law, leaves them at the mercy of the great managers whom they trusted. These seduced creditors are probably persons of no power or interest, either in England or India, and may be just objects of compassion. By taking, in this arrangement, no measures for discrimination and discovery; the fraudulent and the fair are in the first instance confounded in one mass. The subsequent selection and distribution is left to the nabob. With him the agents and instruments of his corruption, whom he sees to be omnipotent in England, and who may serve him in future, as they have done in times past, will have precedence, if not an exclusive preference. These leading interests domineer, and have always domineered, over the whole. By this arrangement, the persons seduced are made dependent on their seducers; honesty (comparative honesty at least) must become

of the party of fraud, and must quit its proper character, and its just claims, to entitle itself to the alms of bribery and peculation.

But be these English creditors what they may, the creditors, most certainly not fraudulent, are the natives, who are numerous and wretched indeed; by exhausting the whole revenues of the Carnatic, nothing is left for them. They lent *bona fide;* in all probability they were even forced to lend, or to give goods and service for the nabob's obligations. They had no trust to carry to his market. They had no faith of alliances to sell. They had no nations to betray to robbery and ruin. They had no lawful government seditiously to overturn; nor had they a governor to whom it is owing that you exist in India, to deliver over to captivity, and to death, in a shameful prison.

These were the merits of the principal part of the debt of 1777, and the universally conceived cause of its growth; and thus the unhappy natives are deprived of every hope of payment for their real debts, to make provision for the arrears of unsatisfied bribery and treason. You see in this instance, that the presumption of guilt is not only no exception to the demands on the public treasury; but with these ministers it is a necessary condition to their support. But that you may not think this preference solely owing to their known contempt of the natives, who ought, with every generous mind, to claim their first charities, you will find the same rule religiously observed with Europeans too. Attend, Sir, to this decisive case. Since the beginning of the war, besides arrears of every kind, a bond debt has been contracted at Madras, uncertain in its amount, but represented from four hundred thousand pounds to a million sterling. It stands only at the low interest of eight *per cent.* Of the legal authority on which this debt was contracted, of its purposes for the very being of the state, of its publicity and fairness, no doubt has been entertained for a moment. For this debt, no sort of provision whatever has been made. It is rejected as an outcast, whilst the whole undissipated attention of the minister has been employed for the discharge of claims entitled to his favor by the merits we have seen.

I have endeavored to find out, if possible, the amount of the whole of those demands, in order to see how much, supposing the country in a condition to furnish the fund, may remain to satisfy the public debt and the necessary establishments. But I have been foiled in my attempt. About one-fourth, that is, about 220,000*l.* of the loan of 1767, remains unpaid. How much interest is in arrear, I could never discover; seven or eight years at least, which would make the whole of that debt about

398,000*l.* This stock, which the ministers in their instructions to the governor of Madras state as the least exceptionable, they have thought proper to distinguish by a marked severity, leaving it the only one, on which the interest is not added to the principal, to beget a new interest.

The cavalry loan, by the operation of the same authority, is made up to 294,000*l.*; and this 294,000*l.*, made up of principal and interest, is crowned with a new interest of twelve *per cent.*

What the grand loan, the bribery loan of 1777, may be, is amongst the deepest mysteries of state. It is probably the first debt ever assuming the title of consolidation, that did not express what the amount of the sum consolidated was. It is little less than a contradiction in terms. In the debt of the year 1767, the sum was stated in the act of consolidation, and made to amount to 880,000*l.*, capital. When this consolidation of 1777 was first announced at the Durbar, it was represented authentically at 2,400,000*l.* In that, or rather in a higher state, Sir Thomas Rumbold found and condemned it. It afterwards fell into such a terror, as to sweat away a million of its weight at once; and it sunk to 1,400,000*l.* However, it was never without a resource for recruiting it to its old plumpness. There was a sort of floating debt of about 4 or 500,000*l.* more, ready to be added, as occasion should require.

In short, when you pressed this sensitive plant, it always contracted its dimensions. When the rude hand of inquiry was withdrawn, it expanded in all the luxuriant vigor of its original vegetation. In the treaty of 1781, the whole of the nabob's debt to private Europeans, is, by Mr. Sullivan, agent to the nabob and the creditors, stated at 2,800,000*l.*, which (if the cavalry loan, and the remains of the debt of 1767, be subtracted) leaves it at the amount originally declared at the Durbar, in 1777. But then there is a private instruction to Mr. Sullivan, which it seems will reduce it again to the lower standard of 1,400,000*l.* Failing in all my attempts, by a direct account, to ascertain the extent of the capital claimed (where in all probability no capital was ever advanced) I endeavored, if possible, to discover it by the interest which was to be paid. For that purpose, I looked to the several agreements for assigning the territories of the Carnatic to secure the principal and interest of this debt. In one of them I found in a sort of postscript, by way of an additional remark (not in the body of the obligation) the debt represented at 1,400,000*l.* But when I computed the sums to be paid for interest by instalments, in another paper I found they produced the interest of two millions, at twelve *per cent.*; and the assignment supposed, that if these instal

ments might exceed, they might also fall short of the real provision for that interest.

Another instalment bond was afterwards granted. In that bond the interest exactly tallies with a capital of 1,400,000*l.* But pursuing this capital through the correspondence, I lost sight of it again, and it was asserted that this instalment bond was considerably short of the interest that ought to be computed to the time mentioned. Here are, therefore, two statements of equal authority, differing at least a million from each other; and as neither persons claiming, nor any special sum as belonging to each particular claimant, is ascertained in the instruments of consolidation, or in the instalment bonds, a large scope was left to throw in any sums for any persons, as their merits in advancing the interest of that loan might require; a power was also left for reduction, in case a harder hand, or more scanty funds, might be found to require it. Stronger grounds for a presumption of fraud never appeared in any transaction. But the ministers, faithful to the plan of the interested persons, whom alone they thought fit to confer with on this occasion, have ordered the payment of the whole mass of these unknown unliquidated sums, without an attempt to ascertain them. On this conduct, Sir, I leave you to make your own reflections.

It is impossible (at least I have found it impossible) to fix on the real amount of the pretended debts with which your ministers have thought proper to load the Carnatic. They are obscure; they shun inquiry; they are enormous. That is all you know of them.

That you may judge what chance any honorable and useful end of government has for a provision that comes in for the leavings of these gluttonous demands, I must take it on myself to bring before you the real condition of that abused, insulted, racked, and ruined country, though in truth my mind revolts from it; though you will hear it with horror; and I confess I tremble when I think on these awful and confounding dispensations of Providence. I shall first trouble you with a few words as to the cause

The great fortunes made in India in the beginnings of conquest, naturally excited an emulation in all the parts, and through the whole succession, of the company's service. But in the company it gave rise to other sentiments. They did not find the new channels of acquisition flow with equal riches to them. On the contrary, the high flood-tide of private emolument was generally in the lowest ebb of their affairs. They began also to fear, that the fortune of war might take away what the fortune of war had given. Wars were accordingly

discouraged by repeated injunctions and menaces; and that the servants might not be bribed into them by the native princes, they were strictly forbidden to take any money whatsoever from their hands. But vehement passion is ingenious in resources. The company's servants were not only stimulated, but better instructed by the prohibition. They soon fell upon a contrivance which answered their purposes far better than the methods which were forbidden; though in this also they violated an ancient, but they thought, an abrogated order. They reversed their proceedings. Instead of receiving presents, they made loans. Instead of carrying on wars in their own name, they contrived an authority, at once irresistible and irresponsible, in whose name they might ravage at pleasure; and being thus freed from all restraint, they indulged themselves in the most extraordinary speculations of plunder. The cabal of creditors who have been the object of the late bountiful grant from his majesty's ministers, in order to possess themselves, under the name of creditors and assignees, of every country in India, as fast as it should be conquered, inspired into the mind of the nabob of Arcot (then a dependant on the company of the humblest order) a scheme of the most wild and desperate ambition that I believe ever was admitted into the thoughts of a man so situated. First, they persuaded him to consider himself as a principal member in the political system of Europe. In the next place they held out to him, and he readily imbibed the idea of the general empire of Indostan. As a preliminary to this undertaking, they prevailed on him to propose a tripartite division of that vast country. One part to the company; another to the Marattas; and the third to himself. To himself he reserved all the southern part of the great peninsula, comprehended under the general name of the Decan.

On this scheme of their servants, the company was to appear in the Carnatic in no other light than as contractor for the provision of armies, and the hire of mercenaries for his use, and under his direction. This disposition was to be secured by the nabob's putting himself under the guarantee of France; and by the means of that rival nation, preventing the English for ever from assuming an equality, much less a superiority in the Carnatic. In pursuance of this treasonable project (treasonable on the part of the English) they extinguished the company as a sovereign power in that part of India; they withdrew the company's garrisons out of all the forts and strong-holds of the Carnatic; they declined to receive the ambassadors from foreign courts, and remitted them to the nabob of Arcot; they fell upon, and totally destroyed the oldest ally of the company, the king of Tanjore, and plundered the country to the amount

of near five millions sterling; one after another, in the nabob's name, but with English force, they brought into a miserable servitude all the princes, and great independent nobility, of a vast country. In proportion to these treasons and violences, which ruined the people, the fund of the nabob's debt grew and flourished.

Among the victims to this magnificent plan of universal plunder, worthy of the heroic avarice of the projectors, you have all heard (and he has made himself to be well remembered) of an Indian chief called Hyder Ali Khan. This man possessed the western, as the company under the name of the nabob of Arcot does the eastern division of the Carnatic. It was among the leading measures in the design of this cabal (according to their own emphatic language) to *extirpate* this Hyder Ali. They declared the nabob of Arcot to be his sovereign, and himself to be a rebel, and publicly invested their instrument with the sovereignty of the kingdom of Mysore. But their victim was not of the passive kind. They were soon obliged to conclude a treaty of peace and close alliance with this rebel, at the gates of Madras. Both before and since that treaty, every principle of policy pointed out this power as a natural alliance; and on his part, it was courted by every sort of amicable office. But the cabinet-council of English creditors would not suffer their nabob of Arcot to sign the treaty, nor even to give to a prince, at least his equal, the ordinary titles of respect and courtesy. From that time forward, a continued plot was carried on within the divan, black and white, of the nabob of Arcot, for the destruction of Hyder Ali. As to the outward members of the double, or rather treble government of Madras, which had signed the treaty, they were always prevented by some overruling influence (which they do not describe, but which cannot be misunderstood) from performing what justice and interest combined so evidently to enforce.

When at length Hyder Ali found that he had to do with men who either would sign no convention, or whom no treaty and no signature could bind, and who were the determined enemies of human intercourse itself, he decreed to make the country possessed by these incorrigible and predestinated criminals a memorable example to mankind. He resolved, in the gloomy recesses of a mind capacious of such things, to leave the whole Carnatic an everlasting monument of vengeance; and to put perpetual desolation as a barrier between him and those against whom the faith which holds the moral elements of the world together was no protection. He became at length so confident of his force, so collected in his might, that he made no secret whatsoever of his dreadful resolution. Having terminated his

disputes with every enemy, and every rival, who buried their mutual animosities in their common detestation against the creditors of the nabob of Arcot, he drew from every quarter whatever a savage ferocity could add to his new rudiments in the arts of destruction; and compounding all the materials of fury, navoc, and desolation, into one black cloud, he hung for awhile on the declivities of the mountains. Whilst the authors of all these evils were idly and stupidly gazing on this menacing meteor, which blackened all their horizon, it suddenly burst, and poured down the whole of its contents upon the plains of the Carnatic.—Then ensued a scene of woe, the like of which no eye had seen, no heart conceived, and which no tongue can adequately tell. All the horrors of war before known or heard of were mercy to that new havoc. A storm of universal fire blasted every field, consumed every house, destroyed every temple. The miserable inhabitants flying from their flaming villages, in part were slaughtered; others, without regard to sex, to age, to the respect of rank, or sacredness of function; fathers torn from children, husbands from wives, enveloped in a whirlwind of cavalry, and amidst the goading spears of drivers, and the trampling of pursuing horses were swept into captivity, in an unknown and hostile land. Those who were able to evade this tempest, fled to the walled cities. But escaping from fire, sword, and exile, they fell into the jaws of famine.

The alms of the settlement, in this dreadful exigency, were certainly liberal; and all was done by charity that private charity could do: but it was a people in beggary; it was a nation which stretched out its hands for food. For months together these creatures of sufferance, whose very excess and luxury in their most plenteous days had fallen short of the allowance of our austerest fasts, silent, patient, resigned, without sedition or disturbance, almost without complaint, perished by a hundred a day in the streets of Madras; every day seventy at least laid their bodies in the streets, or on the glacis of Tanjore, and expired of famine in the granary of India. I was going to awake your justice towards this unhappy part of our fellow-citizens, by bringing before you some of the circumstances of this plague of hunger. Of all the calamities which beset and waylay the life of man, this comes the nearest to our heart, and is that wherein the proudest of us all feels himself to be nothing more than he is: but I find myself unable to manage it with decorum: these details are of a species of horror so nauseous and disgusting; they are so degrading to the sufferers and to the hearers; they are so humiliating to human nature itself, that, on better thoughts, I find it more advisable

to throw a pall over this hideous object, and to leave it to your general conceptions.

For eighteen months, without intermission, this destruction raged from the gates of Madras to the gates of Tanjore; and so completely did these masters in their art, Hyder Ali, and his more ferocious son, absolve themselves of their impious vow, that when the British armies traversed, as they did, the Carnatic for hundreds of miles in all directions, through the whole line of their march, they did not see one man, not one woman, not one child, not one four-footed beast of any description whatever. One dead uniform silence reigned over the whole region. With the inconsiderable exceptions of the narrow vicinage of some few forts, I wish to be understood as speaking literally. I mean to produce to you more than three witnesses, above all exception, who will support this assertion in its full extent. That hurricane of war passed through every part of the central provinces of the Carnatic. Six or seven districts to the north and to the south (and these not wholly untouched) escaped the general ravage.

The Carnatic is a country not much inferior in extent to England. Figure to yourself, Mr. Speaker, the land in whose representative chair you sit; figure to yourself the form and fashion of your sweet and cheerful country from Thames to Trent, north and south, and from the Irish to the German sea east and west, emptied and embowelled (may God avert the omen of our crimes!) by so accomplished a desolation. Extend your imagination a little further, and then suppose your ministers taking a survey of this scene of waste and desolation; what would be your thoughts, if you should be informed that they were computing how much had been the amount of the excises, how much the customs, how much the land and malt tax, in order that they should charge (take it in the most favorable light) for public service, upon the relics of the satiated vengeance of relentless enemies, the whole of what England had yielded in the most exuberant seasons of peace and abundance? What would you call it? To call it tyranny, sublimed into madness, would be too faint an image; yet this very madness is the principle upon which the ministers at your right hand have proceeded in their estimate of the revenues of the Carnatic, when they were providing not supply for the establishments of its protection, but rewards for the authors of its ruin.

Every day you are fatigued and disgusted with this cant, "the Carnatic is a country that will soon recover, and become instantly as prosperous as ever." They think they are talking to innocents, who will believe that by sowing of dragons' teeth,

men may come up ready grown and ready armed. They who will give themselves the trouble of considering (for it requires no great reach of thought, no very profound knowledge) the manner in which mankind are increased, and countries cultivated, will regard all this raving as it ought to be regarded. In order that the people, after a long period of vexation and plunder, may be in a condition to maintain government, government must begin by maintaining them.—Here the road to economy lies not through receipt, but through expense; and in that country nature has given no short cut to your object. Men must propagate, like other animals, by the mouth. Never did oppression light the nuptial torch; never did extortion and usury spread out the genial bed. Does any of you think that England, so wasted, would, under such a nursing attendance, so rapidly and cheaply recover? But he is meanly acquainted with either England or India, who does not know that England would a thousand times sooner resume population, fertility, and what ought to be the ultimate secretion from both, revenue, than such a country as the Carnatic.

The Carnatic is not by the bounty of nature a fertile soil. The general size of its cattle is proof enough that it is much otherwise. It is some days since I moved, that a curious and interesting map kept in the India House, should be laid before you. The India House is not yet in readiness to send it; I have therefore brought down my own copy, and there it lies for the use of any gentleman who may think such a matter worthy of his attention. It is, indeed, a noble map, and of noble things; but it is decisive against the golden dreams and sanguine speculations of avarice run mad. In addition to what you know must be the case in every part of the world (the necessity of a previous provision of habitation, seed, stock, capital) that map will show you, that the use of the influences of Heaven itself, are in that country a work of art. The Carnatic is refreshed by few or no living brooks or running streams, and it has rain only at a season; but its product of rice exacts the use of water subject to perpetual command. This is the national bank of the Carnatic, on which it must have a perpetual credit, or it perishes irretrievably. For that reason, in the happier times of India, a number almost incredible of reservoirs have been made in chosen places throughout the whole country; they are formed for the greater part of mounds of earth and stones, with sluices of solid masonry; the whole constructed with admirable skill and labor, and maintained at a mighty charge. In the territory contained in that map alone, I have been at the trouble of reckoning the reservoirs, and they amount to upwards of eleven hundred

from the extent of two or three acres to five miles in circuit. From these reservoirs currents are occasionally drawn over the fields, and these water-courses again call for a considerable expense to keep them properly secured and duly levelled. Taking the district in that map as a measure, there cannot be in the Carnatic and Tanjore fewer than ten thousand of these reservoirs of the larger and middling dimensions, to say nothing of those for domestic services, and the use of religious purifications. These are not the enterprises of your power, nor in a style of magnificence suited to the taste of your minister. These are the monuments of real kings, who were the fathers of their people; testators to a posterity which they embraced as their own. These are the grand sepulchres built by ambition; but by the ambition of an unsatiable benevolence, which, not contented with reigning in the dispensation of happiness during the contracted term of human life, had strained, with all the reachings and graspings of a vivacious mind, to extend the dominion of their bounty beyond the limits of nature, and to perpetuate themselves through generations of generations, the guardians, the protectors, the nourishers of mankind.

Long before the late invasion, the persons who are objects of the grant of public money now before you, had so diverted the supply of the pious funds of culture and population, that everywhere the reservoirs were fallen into a miserable decay. But after those domestic enemies had provoked the entry of a cruel foreign foe into the country, he did not leave it until his revenge had completed the destruction begun by their avarice. Few, very few indeed, of these magazines of water that are not either totally destroyed, or cut through with such gaps, as to require a serious attention and much cost to re-establish them, as the means of present subsistence to the people, and of future revenue to the state.

What, Sir, would a virtuous and enlightened ministry do, on the view of the ruins of such works before them? On the view of such a chasm of desolation as that which yawned in the midst of those countries to the north and south, which still bore some vestiges of cultivation? They would have reduced all their most necessary establishments; they would have suspended the justest payments; they would have employed every shilling derived from the producing to reanimate the powers of the unproductive parts. While they were performing this fundamental duty, whilst they were celebrating these mysteries of justice and humanity, they would have told the corps of fictitious creditors, whose crimes were their claims, that they must keep an awful distance; that they must silence their inauspicious tongues; that they must hold off their profane and

unhallowed paws from this holy work; they would have proclaimed with a voice that should make itself heard, that on every country the first creditor is the plough; that this original, indefeasible claim supersedes every other demand.

This is what a wise and virtuous ministry would have done and said. This, therefore, is what our minister could never think of saying or doing. A ministry of another kind would have first improved the country, and have thus laid a solid foundation for future opulence and future force. But on this grand point of the restoration of the country, there is not one syllable to be found in the correspondence of our ministers, from the first to the last. They felt nothing for a land desolated by fire, sword, and famine; their sympathies took another direction. They were touched with pity for bribery, so long tormented with a fruitless itching of its palms; their bowels yearned for usury, that had long missed the harvest of its returning months; they felt for peculation, which had been for so many years raking in the dust of an empty treasury; they were melted into compassion for rapine and oppression, licking their dry, parched, unbloody jaws. These were the objects of their solicitude. These were the necessities for which they were studious to provide.

But I, Sir, who profess to speak to your understanding and to your conscience, and to brush away from this business all false colors, all false appellations, as well as false facts, do positively deny that the Carnatic owes a shilling to the company, whatever the company may be indebted to that undone country. It owes nothing to the company for this plain and simple reason—The territory charged with the debt is their own. To say that their revenues fall short, and owe them money, is to say they are in debt to themselves, which is only talking nonsense. The fact is, that by the invasion of an enemy, and the ruin of the country, the company, either in its own name or in the names of the nabob of Arcot, and rajah of Tanjore, has lost for several years what it might have looked to receive from its own estate. If men were allowed to credit themselves upon such principles, any one might soon grow rich by this mode of accounting. A flood comes down upon a man's estate in the Bedford Level of a thousand pounds a year, and drowns his rents for ten years. The chancellor would put that man into the hands of a trustee, who would gravely make up his books, and for this loss credit himself in his account for a debt due to him of 10,000*l*. It is, however, on this principle the company makes up its demands on the Carnatic. In peace they go th full length, and indeed more than the full length, of what the people can bear for current establishments; then they are ab

surd enough to consolidate all the calamities of war into debts, to metamorphose the devastations of the country into demands upon its future production. What is this but to avow a resolution utterly to destroy their own country, and to force the people to pay for their sufferings, to a government which has proved unable to protect either the share of the husbandman, or their own? In every lease of a farm, the invasion of an enemy, instead of forming a demand for arrear, is a release of rent; nor for that release is it at all necessary to show, that the invasion has left nothing to the occupier of the soil; though in the present case it would be too easy to prove that melancholy fact. I therefore applaud my right honorable friend, who, when he canvassed the company's accounts, as a preliminary to a bill that ought not to stand on falsehood of any kind, fixed his discerning eye, and his deciding hand, on these debts of the company, from the nabob of Arcot and rajah of Tanjore, and at one stroke expunged them all, as utterly irrecoverable; he might have added, as utterly unfounded.

On these grounds I do not blame the arrangement this day in question, as a preference given to the debt of individuals over the company's debt. In my eye it is no more than the preference of a fiction over a chimera; but I blame the preference given to those fictitious private debts over the standing defence and the standing government. It is there the public is robbed. It is robbed in its army; it is robbed in its civil administration; it is robbed in its credit; it is robbed in its investment which forms the commercial connexion between that country and Europe. There is the robbery.

But my principal objection lies a good deal deeper. That debt to the company is the pretext under which all the other debts lurk and cover themselves. That debt forms the foul, putrid mucus, in which are engendered the whole brood of creeping ascarides, all the endless involutions, the eternal knot, added to a knot of those inexpugnable tape-worms which devour the nutriment, and eat up the bowels of India. It is necessary, Sir, you should recollect two things: first, that the nabob's debt to the company carries no interest. In the nex place you will observe, that whenever the company has occa sion to borrow, she has always commanded whatever she thought fit at eight *per cent.* Carrying in your mind these two facts, attend to the process with regard to the public and private debt, and with what little appearance of decency they play into each other's hands a game of utter perdition to the unhappy natives of India. The nabob falls into an arrear to the company. The presidency presses for payment. The nabob's answer is, I have no money. Good. But there are soucars

who will supply you on the mortgage of your territories. Then steps forward some Paul Benfield, and from his grateful compassion to the nabob, and his filial regard to the company, he unlocks the treasures of his virtuous industry; and for a consideration of twenty-four or thirty-six *per cent.* on a mortgage of the territorial revenue, becomes security to the company for the nabob's arrear.

All this intermediate usury thus becomes sanctified by the ultimate view to the company's payment. In this case, would not a plain man ask this plain question of the company; if you know that the nabob must annually mortgage his territories to your servants to pay his annual arrear to you, why is not the assignment or mortgage made directly to the company itself? By this simple, obvious operation, the company would be relieved and the debt paid, without the charge of a shilling interest to that prince. But if that course should be thought too indulgent, why do they not take that assignment with such interest to themselves as they pay to others, that is eight *per cent.*? Or if it were thought more advisable (why it should I know not) that he must borrow, why do not the company lend their own credit to the nabob for their own payment? That credit would not be weakened by the collateral security of his territorial mortgage. The money might still be had at eight *per cent.* Instead of any of these honest and obvious methods, the company has for years kept up a show of disinterestedness and moderation, by suffering a debt to accumulate to them from the country powers without any interest at all; and at the same time have seen before their eyes, on a pretext of borrowing to pay that debt, the revenues of the country charged with a usury of twenty, twenty-four, thirty-six, and even eight-and-forty *per cent.* with compound interest, for the benefit of their servants. All this time they know that by having a debt subsisting without any interest, which is to be paid by contracting a debt on the highest interest, they manifestly render it necessary to the nabob of Arcot to give the private demand a preference to the public; and by binding him and their servants together in a common cause, they enable him to form a party to the utter ruin of their own authority, and their own affairs. Thus their false moderation, and their affected purity, by the natural operation of everything false, and everything affected, becomes pander and pawd to the unbridled debauchery and licentious lewdness of usury and extortion.

In consequence of this double game, all the territoria revenues have, at one time or other, been covered by those locusts, the English soucars. Not one single foot of the Carnatic has escaped them: a territory as large as England.

During these operations, what a scene has that country presented! The usurious European assignee supersedes the nabob's native farmer of the revenue; the farmer flies to the nabob's presence to claim his bargain; whilst his servants murmur for wages, and his soldiers mutiny for pay. The mortgage to the European assignee is then resumed, and the native farmer replaced; replaced, again to be removed on the new clamor of the European assignee. Every man of rank and landed fortune being long since extinguished, the remaining miserable last cultivator, who grows to the soil, after having his back scored by the farmer, has it again flayed by the whip of the assignee, and is thus, by a ravenous because a short-lived succession of claimants, lashed from oppressor to oppressor, whilst a single drop of blood is left as the means of extorting a single grain of corn. Do not think I paint. Far, very far from it; I do not reach the fact, nor approach to it. Men of respectable condition, men equal to your substantial English yeomen, are daily tied up and scourged to answer the multiplied demands of various contending and contradictory titles, all issuing from one and the same source. Tyrannous exaction brings on servile concealment; and that again calls forth tyrannous coercion. They move in a circle, mutually producing and produced; till at length nothing of humanity is left in the government, no trace of integrity, spirit, or manliness in the people, who drag out a precarious and degraded existence under this system of outrage upon human nature. Such is the effect of the establishment of a debt to the company, as it has hitherto been managed, and as it ever will remain, until ideas are adopted totally different from those which prevail at this time.

Your worthy ministers, supporting what they are obliged to condemn, have thought fit to renew the company's old order against contracting private debts in future. They begin by rewarding the violation of the ancient law; and then they gravely re-enact provisions, of which they have given bounties for the breach. This inconsistency has been well exposed. But what will you say to their having gone the length of giving positive directions for contracting the debt which they positively forbid?

I will explain myself. They order the nabob, out of the revenues of the Carnatic, to allot four hundred and eighty thousand pounds a year, as a fund for the debts before us. For the punctual payment of this annuity, they order him to give *soucar* security. When a *soucar*, that is a money-dealer, becomes security for any native prince, the course is, for the native prince to counter-secure the money-dealer, by making over to him in mortgage a portion of his territory, equal to the sum

annually to be paid, with an interest of at least twenty-four *per cent.* The point fit for the house to know is, who are these soucars, to whom this security on the revenues in favor of the nabob's creditors is to be given? The majority of the house, unaccustomed to these transactions, will hear with astonishment that these soucars are no other than the creditors themselves. The minister, not content with authorizing these transactions in a manner and to an extent unhoped for by the rapacious expectations of usury itself, loads the broken back of the Indian revenues, in favor of his worthy friends the soucars, with an additional twenty-four *per cent.* for being security to themselves for their own claims; for condescending to take the country in mortgage to pay to themselves the fruits of their extortions.

The interest to be paid for this security, according to the most moderate strain of soucar demand, comes to one hundred and eighteen thousand pounds a year, which added to the 480,000*l.* on which it is to accrue, will make the whole charge on account of these debts on the Carnatic revenues amount to 598,000*l.* a year, as much as even a long peace will enable those revenues to produce. Can any one reflect for a moment on all those claims of debt, which the minister exhausts himself in contrivances to augment with new usuries, without lifting up his hands and eyes in astonishment of the impudence, both of the claim and of the adjudication? Services of some kind or other these servants of the company must have done, so great and eminent, that the chancellor of the exchequer cannot think that all they have brought home is half enough. He halloos after them: "Gentlemen, you have forgot a large packet behind you, in your hurry; you have not sufficiently recovered yourselves; you ought to have, and you shall have interest upon interest, upon a prohibited debt that is made up of interest upon interest. Even this is too little. I have thought of another character for you, by which you may add something to your gains; you shall be security to yourselves; and hence will arise a new usury, which shall efface the memory of all the usuries suggested to you by your own dull inventions."

I have done with the arrangement relative to the Carnatic After this it is to little purpose to observe on what the ministers have done to Tanjore. Your ministers have not observed even form and ceremony in their outrageous and insulting robbery of that country, whose only crime has been, its early and constant adherence to the power of this, and the suffering of a uniform pillage in consequence of it. The debt of the company from the rajah of Tanjore, is just of the same stuff with that of the nabob of Arcot.

The subsidy from Tanjore, on the arrear of which this pretended debt (if any there be) has accrued to the company, is not, like that paid by the nabob of Arcot, a compensation for vast countries obtained. augmented, and preserved for him; not the price of pillaged treasuries, ransacked houses, and plundered territories.—It is a large grant, from a small kingdom, not obtained by our arms; robbed, not protected by our power; a grant for which no equivalent was ever given, or pretended to be given. The right honorable gentleman, however, bears witness in his reports to the punctuality of the payments of this grant of bounty, or, if you please, of fear. It amounts to one hundred and sixty thousand pounds sterling net annual subsidy. He bears witness to a further grant of a town and port, with an annexed district of thirty thousand pounds a year, surrendered to the company since the first donation. He has not borne witness, but the fact is (he will not deny it) that in the midst of war, and during the ruin and desolation of a considerable part of his territories, this prince made many very large payments. Notwithstanding these merits and services, the first regulation of ministry is to force from him a territory of an extent which they have not yet thought proper to ascertain, for a military peace establishment, the particulars of which they have not yet been pleased to settle.

The next part of their arrangement is with regard to war. As confessedly this prince had no share in stirring up any of the former wars, so all future wars are completely out of his power; for he has no troops whatever, and is under a stipulation not so much as to correspond with any foreign state, except through the company. Yet in case the company's servants should be again involved in war, or should think proper again to provoke any enemy, as in times past they have wantonly provoked all India, he is to be subjected to a new penalty. To what penalty?—Why, to no less than the confiscation of all his revenues. But this is to end with the war, and they are to be faithfully returned?—Oh! no; nothing like it. The country is to remain under confiscation until all the debt which the company shall think fit to incur in such war shall be discharged; that is to say, for ever. His sole comfort is to find his old enemy, the nabob of Arcot, placed in the very same condition.

The revenues of that miserable country were, before the invasion of Hyder, reduced to a *gross* annual receipt of three hundred and sixty thousand pounds. From this receipt the subsidy I have just stated is taken. This again, by payments in advance, by extorting deposits of additional sums to a vast amount for the benefit of their soucars, and by an endless variety of other extortions, public and private, is loaded with a debt

the amount of which I never could ascertain, but which is large undoubtedly, generating a usury the most completely ruinous that probably was ever heard of; that is, *forty-eight per cent. payable monthly, with compound interest.*

Such is the state to which the company's servants have reduced that country. Now come the reformers, restorers, and comforters of India. What have they done? In addition to all these tyrannous exactions with all these ruinous debts in their train, looking to one side of an agreement whilst they wilfully shut their eyes to the other, they withdraw from Tanjore all the benefits of the treaty of 1762, and they subject that nation to a perpetual tribute of forty thousand a year to the nabob of Arcot; a tribute never due, or pretended to be due to *him*, even when he appeared to be something; a tribute, as things now stand, not to a real potentate, but to a shadow, a dream, an incubus of oppression. After the company has accepted in subsidy, in grant of territory, in remission of rent, as a compensation for their own protection, at least two hundred thousand pounds a year, without discounting a shilling for that receipt, the ministers condemn this harassed nation to be tributary to a person who is himself, by their own arrangement, deprived of the right of war or peace; deprived of the power of the sword; forbid to keep up a single regiment of soldiers; and is therefore wholly disabled from all protection of the country, which is the object of the pretended tribute. Tribute hangs on the sword. It is an incident inseparable from real sovereign power. In the present case to suppose its existence, is as absurd as it is cruel and oppressive. And here, Mr. Speaker, you have a clear exemplification of the use of those false names, and false colors, which the gentlemen who have lately taken possession of India choose to lay on for the purpose of disguising their plan of oppression. The nabob of Arcot, and rajah of Tanjore, have, in truth and substance, no more than a merely civil authority, held in the most entire dependence on the company. The nabob, without military, without federal capacity, is extinguished as a potentate; but then he is carefully kept alive as an independent and sovereign power, for the purpose of rapine and extortion; for the purpose of perpetuating the old intrigues, animosities, usuries, and corruptions.

It was not enough that this mockery of tribute was to be continued without the correspondent protection, or any of the stipulated equivalents, but ten years of arrear, to the amount of 400,000*l.* sterling, is added to all the debts to the company, and to individuals, in order to create a new debt, to be paid (if at all possible to be paid in whole or in part) only by new usuries; and all this for the nabob of Arcot, or rather for Mr.

Benfield, and the corps of the nabob's creditors, and their soucars. Thus these miserable Indian princes are continued in their seats, for no other purpose than to render them in the first instance objects of every species of extortion; and in the second, to force them to become, for the sake of a momentary shadow of reduced authority, a sort of subordinate tyrants, the ruin and calamity, not the fathers and cherishers of their people.

But take this tribute only as a mere charge (without title, cause, or equivalent) on this people; what one step has been taken to furnish grounds for a just calculation and estimate of the proportion of the burthen and the ability? None; not an attempt at it. They do not adapt the burthen to the strength; but they estimate the strength of the bearers by the burthen they impose. Then what care is taken to leave a fund sufficient to the future reproduction of the revenues that are to bear all these loads? Every one, but tolerably conversant in Indian affairs, must know that the existence of this little kingdom depends on its control over the river Cavery. The benefits of heaven to any community, ought never to be connected with political arrangements, or made to depend on the personal conduct of princes; in which the mistake, or error, or neglect, or distress, or passion of a moment on either side, may bring famine on millions, and ruin an innocent nation perhaps for ages. The means of the subsistence of mankind should be as immutable as the laws of nature, let power and dominion take what course they may.—Observe what has been done with regard to this important concern. The use of this river is indeed at length given to the rajah, and a power provided for its enjoyment *at his own charge;* but the means of furnishing that charge (and a mighty one it is) are wholly cut off. This use of the water, which ought to have no more connexion than clouds, and rains, and sunshine, with the politics of the rajah, the nabob, or the company, is expressly contrived as a means of enforcing demands and arrears of tribute. This horrid and unnatural instrument of extortion had been a distinguishing feature in the enormities of the Carnatic politics that loudly called for reformation. But the food of a whole people is by the reformers of India conditioned on payments from its prince, at a moment that he is overpowered with a swarm of their demands, without regard to the ability of either prince or people. In fine, by opening an avenue to the irruption of the nabob of Arcot's creditors and soucars, whom every man who did not fall in love with oppression and corruption on an experience of the calamities they produced, would have raised wall before wall, and mound before mound, to keep from a possibility of entrance, a more destructive enemy than Hyder Ali is introduced into that

kingdom. By this part of their arrangement in which they establish a debt to the nabob of Arcot, in effect and substance they deliver over Tanjore, bound hand and foot, to Paul Benfield, the old betrayer, insulter, oppressor, and scourge of a country, which has for years been an object of an unremitted, but unhappily an unequal struggle, between the bounties of Providence to renovate, and the wickedness of mankind to destroy.

The right honorable gentleman talks of his fairness in determining the territorial dispute between the nabob of Arcot and the prince of that country, when he superseded the determination of the directors, in whom the law had vested the decision of that controversy. He is in this just as feeble as he is in every other part. But it is not necessary to say a word in refutation of any part of his argument. The mode of the proceeding sufficiently speaks the spirit of it. It is enough to fix his character as a judge, that he *never heard the directors in defence of their adjudication, nor either of the parties in support of their respective claims.* It is sufficient for me, that he takes from the rajah of Tanjore by this pretended adjudication, or rather from his unhappy subjects, 40,000*l.* a year of his and their revenue, and leaves upon his and their shoulders all the charges that can be made on the part of the nabob, on the part of his creditors, and on the part of the company, without so much as hearing him as to right or ability. But what principally induces me to leave the affair of the territorial dispute between the nabob and the rajah to another day, is this, that both the parties being stripped of their all, it little signifies under which of their names the unhappy undone people are delivered over to the merciless soucars, the allies of that right honorable gentleman, and the chancellor of the exchequer. In them ends the account of this long dispute of the nabob of Arcot, and the rajah of Tanjore.

The right honorable gentleman is of opinion, that his judgment in this case can be censured by none but those who seem to act as if they were paid agents to one of the parties. What does he think of his court of directors? If they are paid by either of the parties, by which of them does he think they are paid? He knows that their decision has been directly contrary to his. Shall I believe that it does not enter into his heart to conceive, that any person can steadily and actively interest himself in the protection of the injured and oppressed, without being well paid for his service? I have taken notice of this sort of discourse some days ago, so far as it may be supposed to relate to me. I then contented myself, as I shall now do, with giving it a cold, though a very direct contradiction. Thus

much I do from respect to truth. If I did more, it might be supposed, by my anxiety to clear myself, that I had imbibed the ideas, which, for obvious reasons, the right honorable gentleman wishes to have received concerning all attempts to plead the cause of the natives of India, as if it were a disreputable employment. If he had not forgot, in his present occupation, every principle which ought to have guided him, and I hope did guide him, in his late profession, he would have known, that he who takes a fee for pleading the cause of distress against power, and manfully performs the duty he has assumed, receives an honorable recompense for a virtuous service. But if the right honorable gentleman will have no regard to fact in his insinuations, or to reason in his opinions, I wish him at least to consider, that if taking an earnest part with regard to the oppressions exercised in India, and with regard to this most oppressive case of Tanjore in particular, can ground a presumption of interested motives, he is himself the most mercenary man I know. His conduct, indeed, is such that he is on all occasions the standing testimony against himself. He it was that first called to that case the attention of the house: the reports of his own committee are ample and affecting upon that subject; and as many of us as have escaped his massacre, must remember the very pathetic picture he made of the sufferings of the Tanjore country, on the day when he moved the unwieldy code of his Indian resolutions. Has he not stated over and over again in his reports, the ill treatment of the rajah of Tanjore (a branch of the royal house of the Marattas, every injury to whom the Marattas felt as offered to themselves) as a main cause of the alienation of that people from the British power? And does he now think, that to betray his principles, to contradict his declarations, and to become himself an active instrument in those oppressions which he had so tragically lamented, is the way to clear himself of having been actuated by a pecuniary interest, at the time when he chose to appear full of tenderness to that ruined nation?

The right honorable gentleman is fond of parading on the motives of others, and on his own. As to himself, he despises the imputations of those who suppose that anything corrupt could influence him in this his unexampled liberality of the public treasure. I do not know that I am obliged to speak to the motives of ministry, in the arrangements they have made of the pretended debts of Arcot and Tanjore. If I prove fraud and collusion with regard to public money on those right honorable gentlemen, I am not obliged to assign their motives; because no good motives can be pleaded in favor of their conduct. Upon that case I stand; we are at issue; and I desire to

go to trial. This, I am sure, is not loose railing, or mean insinuation, according to their low and degenerate fashion, when they make attacks on the measures of their adversaries. It is a regular and juridical course; and, unless I choose it, nothing can compel me to go further.

But since these unhappy gentlemen have dared to hold a lofty tone about their motives, and affect to despise suspicion, instead of being careful not to give cause for it, I shall beg leave to lay before you some general observations on what I conceive was their duty in so delicate a business.

If I were worthy to suggest any line of prudence to that right honorable gentleman, I would tell him, that the way to avoid suspicion in the settlement of pecuniary transactions, in which great frauds have been very strongly presumed, is, to attend to these few plain principles:—First, to hear all parties equally, and not the managers for the suspected claimants only. —Not to proceed in the dark; but to act with as much publicity as possible.—Not to precipitate decision.—To be religious in following the rules prescribed in the commission under which we act. And, lastly, and above all, not to be fond of straining constructions, to force a jurisdiction, and to draw to ourselves the management of a trust in its nature invidious and obnoxious to suspicion, where the plainest letter of the law does not compel it. If these few plain rules are observed, no corruption ought to be suspected; if any of them are violated, suspicion will attach in proportion. If all of them are violated, a corrupt motive of some kind or other will not only be suspected, but must be violently presumed.

The persons in whose favor all these rules have been violated, and the conduct of ministers towards them, will naturally call for your consideration, and will serve to lead you through a series and combination of facts and characters, if I do not mistake, into the very inmost recesses of this mysterious business. You will then be in possession of all the materials on which the principles of sound jurisprudence will found, or will reject the presumption of corrupt motives; or if such motives are indicated, will point out to you of what particular nature the corruption is.

Our wonderful minister, as you all know, formed a new plan, a plan *insigne recens alio indictum ore*, a plan for supporting the freedom of our constitution by court intrigues, and for removing its corruptions by Indian delinquency. To carry that bold paradoxical design into execution, sufficient funds and apt instruments became necessary. You are perfectly sensible that a parliamentary reform occupies his thoughts day and night, as an essential member of this extraordinary project

In his anxious researches upon this subject, natural instinct, as well as sound policy, would direct his eyes, and settle his choice on Paul Benfield. Paul Benfield is the grand parliamentary reformer, the reformer to whom the whole choir of reformers bow, and to whom even the right honorable gentleman himself must yield the palm: for what region in the empire, what city, what borough, what county, what tribunal, in this kingdom, is not full of his labors? Others have been only speculators; he is the grand practical reformer; and whilst the chancellor of the exchequer pledges in vain the man and the minister, to increase the provincial members, Mr. Benfield has auspiciously and practically begun it. Leaving far behind him even lord Camelford's generous design of bestowing Old Sarum on the bank of England, Mr. Benfield has thrown in the borough of Cricklade to reinforce the county representation. Not content with this, in order to station a steady phalanx for all future reforms, this public-spirited usurer, amidst his charitable toils for the relief of India, did not forget the poor rotten constitution of his native country. For her, he did not disdain to stoop to the trade of a wholesale upholsterer for this house, to furnish it not with the faded tapestry figures of antiquated merit, such as decorate, and may reproach some other houses, but with real, solid, living patterns of true modern virtue. Paul Benfield made (reckoning himself) no fewer than eight members in the last parliament. What copious streams of pure blood must he not have transfused into the veins of the present!

But what is even more striking than the real services of this new-imported patriot, is his modesty. As soon as he had conferred this benefit on the constitution, he withdrew himself from our applause. He conceived that the duties of a member of parliament (which with the elect faithful, the true believers, the *Islam* of parliamentary reform, are of little or no merit, perhaps not much better than specious sins) might be as well attended to in India as in England, and the means of reformation to parliament itself, be far better provided. Mr. Benfield was therefore no sooner elected, than he set off for Madras, and defrauded the longing eyes of parliament. We have never enjoyed in this house the luxury of beholding that minion of the human race, and contemplating that visage, which has so long reflected the happiness of nations.

It was therefore not possible for the minister to consult personally with this great man. What then was he to do? Through a sagacity that never failed him in these pursuits, he found out in Mr. Benfield's representative, his exact resemblance. A specific attraction by which he gravitates towards all such char

acters, soon brought our minister into a close connexion with Mr. Benfield's agent and attorney; that is, with the grand contractor (whom I name to honor) Mr. Richard Atkinson; a name that will be well remembered as long as the records of this house, as long as the records of the British treasury, as long as the monumental debt of England, shall endure.

This gentleman, Sir, acts as attorney for Mr. Paul Benfield. Every one who hears me, is well acquainted with the sacred friendship, and the steady mutual attachment that subsists between him and the present minister. As many members as chose to attend in the first session of this parliament, can best tell their own feelings at the scenes which were then acted. How much that honorable gentleman was consulted in the original frame and fabric of the bill, commonly called Mr. Pitt's India bill, is matter only of conjecture; though by no means difficult to divine. But the public was an indignant witness of the ostentation with which that measure was made his own, and the authority with which he brought up clause after clause, to stuff and fatten the rankness of that corrupt act. As fast as the clauses were brought up to the table, they were accepted. No hesitation; no discussion. They were received by the new minister, not with approbation, but with implicit submission. The reformation may be estimated, by seeing who was the reformer. Paul Benfield's associate and agent was held up to the world as legislator of Indostan. But it was necessary to authenticate the coalition between the men of intrigue in India and the minister of intrigue in England, by a studied display of the power of this their connecting link. Every trust, every honor, every distinction, was to be heaped upon him. He was at once made a director of the India company; made an alderman of London; and to be made, if ministry could prevail (and I am sorry to say how near they were prevailing) representative of the capital of this kingdom. But to secure his services against all risk, he was brought in for a ministerial borough. On his part, he was not wanting in zeal for the common cause. His advertisements show his motives, and the merits upon which he stood. For your minister, this worn-out veteran submitted to enter into the dusty field of the London contest; and you all remember, that in the same virtuous cause he submitted to keep a sort of public office or counting-house, where the whole business of the last general election was managed. It was openly managed by the direct agent and attorney of Benfield. It was managed upon Indian principles, and for an Indian interest. This was the golden cup of abominations; this the chalice of the fornications of rapine, usury, and oppression

which was held out by the gorgeous eastern harlot; which so many of the people, so many of the nobles of this land, had drained to the very dregs. Do you think that no reckoning was to follow this lewd debauch? that no payment was to be demanded for this riot of public drunkenness and national prostitution? Here! you have it here before you. The principal of the grand election manager must be indemnified; accordingly the claims of Benfield and his crew must be put above all inquiry.

Here is a specimen of the new and pure aristocracy created by the right honorable gentleman, as the support of the crown and constitution, against the old, corrupt, refractory, natural interests of this kingdom; and this is the grand counterpoise against all odious coalitions of these interests. A single Benfield outweighs them all; a criminal, who long since ought to have fattened the region kites with his offal, is, by his majesty's ministers, enthroned in the government of a great kingdom, and enfeoffed with an estate, which in the comparison effaces the splendor of all the nobility of Europe. To bring a little more distinctly into view the true secret of this dark transaction, I beg you particularly to advert to the circumstances which I am going to place before you.

The general corps of creditors, as well as Mr. Benfield himself, not looking well into futurity, nor presaging the minister of this day, thought it not expedient for their common interest, that such a name as his should stand at the head of their list. It was therefore agreed amongst them, that Mr. Benfield should disappear, by making over his debt to Messrs. Taylor, Majendie, and Call, and should in return be secured by their bond.

The debt thus exonerated of so great a weight of its odium, and otherwise reduced from its alarming bulk, the agents thought they might venture to print a list of the creditors. This was done for the first time in the year 1783, during the duke of Portland's administration. In this list the name of Benfield was not to be seen. To this strong negative testimony was added the further testimony of the nabob of Arcot. That prince (or rather Mr. Benfield for him) writes to the court of directors a letter full of complaints and accusations against lord Macartney, conveyed in such terms as were natural for one of Mr. Benfield's habits and education to employ. Amongst the rest, he is made to complain of his lordship's endeavoring to prevent an intercourse of politeness and sentiment between him and Mr. Benfield; and, to aggravate the affront, he expressly declares Mr. Benfield's visits to be only on account of respect and of gratitude, as no pecuniary transactions subsisted between them.

Such, for a considerable space of time, was the outward form of the loan of 1777, in which Mr. Benfield had no sort of concern. At length intelligence arrived at Madras, that this debt, which had always been renounced by the court of directors, was rather like to become the subject of something more like a criminal inquiry, than of any patronage or sanction from parliament. Every ship brought accounts, one stronger than the other, of the prevalence of the determined enemies of the Indian system. The public revenues became an object desperate to the hopes of Mr. Benfield; he therefore resolved to fall upon his associates, and, in violation of that faith which subsists among those who have abandoned all other, commences a suit in the mayor's court against Taylor, Majendie, and Call, for the bond given to him, when he agreed to disappear for his own benefit as well as that of the common concern. The assignees of his debt, who little expected the springing of this mine, even from such an engineer as Mr. Benfield, after recovering their first alarm, thought it best to take ground on the real state of the transaction. They divulged the whole mystery, and were prepared to plead, that they had never received from Mr. Benfield any other consideration for the bond, than a transfer, in trust for himself, of his demand on the nabob of Arcot. A universal indignation arose against the perfidy of Mr. Benfield's proceeding; the event of the suit was looked upon as so certain, that Benfield was compelled to retreat as precipitately as he had advanced boldly; he gave up his bond, and was reinstated in his original demand, to wait the fortune of other claimants. At that time, and at Madras, this hope was dull indeed; but at home another scene was preparing.

It was long before any public account of this discovery at Madras had arrived in England, that the present minister, and his board of control, thought fit to determine on the debt of 1777. The recorded proceedings at this time knew nothing of any debt to Benfield. There was his own testimony; there was the testimony of the list; there was the testimony of the nabob of Arcot against it. Yet such was the ministers' feeling of the true secret of this transaction, that they thought proper, in the teeth of all these testimonies, to give him license to return to Madras. Here the ministers were under some embarrassment. Confounded between their resolution of rewarding the good services of Benfield's friends and associates in England, and the shame of sending that notorious incendiary to the court of the nabob of Arcot, to renew his intrigues against the British government, at the time they authorize his return, they forbid him, under the severest penalties, from any conversation with the nabob or his ministers:

that is, they forbid his communication with the very person on account of his dealings with whom they permit his return to that city. To overtop this contradiction, there is not a word restraining him from the freest intercourse with the nabob's second son, the real author of all that is done in the nabob's name; who, in conjunction with this very Benfield, has acquired an absolute dominion over that unhappy man, is able to persuade him to put his signature to whatever paper they please, and often without any communication of the contents. This management was detailed to them at full length by lord Macartney, and they cannot pretend ignorance of it.

I believe, after this exposure of facts, no man can entertain a doubt of the collusion of ministers with the corrupt interest of the delinquents in India. Whenever those in authority provide for the interest of any person, on the real but concealed state of his affairs, without regard to his avowed, public, and ostensible pretences, it must be presumed that they are in confederacy with him, because they act for him on the same fraudulent principles on which he acts for himself. It is plain, that the ministers were fully apprized of Benfield's real situation, which he had used means to conceal whilst concealment answered his purposes. They were, or the person on whom they relied was, of the cabinet council of Benfield, in the very depth of all his mysteries. An honest magistrate compels men to abide by one story. An equitable judge would not hear of the claim of a man who had himself thought proper to renounce it. With such a judge, his shuffling and prevarication would have damned his claims; such a judge never would have known, but in order to animadvert upon, proceedings of that character.

I have thus laid before you, Mr. Speaker, I think with sufficient clearness, the connexion of the ministers with Mr. Atkinson at the general election; I have laid open to you the connexion of Atkinson with Benfield; I have shown Benfield's employment of his wealth, in creating a parliamentary interest, to procure a ministerial protection; I have set before your eyes his large concern in the debt, his practices to hide that concern from the public eye, and the liberal protection which he has received from the minister. If this chain of circumstances do not lead you necessarily to conclude that the minister has paid to the avarice of Benfield the services done by Benfield's connexions to his ambition, I do not know anything short of the confession of the party that can persuade you of his guilt. Clandestine and collusive practice can only be traced by combination and comparison of circumstances. To reject such combination and comparison is to reject the only means of

detecting fraud; it is indeed to give it a patent and free license to cheat with impunity.

I confine myself to the connexion of ministers, mediately or immediately, with only two persons concerned in this debt. How many others, who support their power and greatness within and without doors, are concerned originally, or by transfers of these debts, must be left to general opinion. I refer to the reports of the select committee for the proceedings of some of the agents in these affairs, and their attempts, at least, to furnish ministers with the means of buying general courts, and even whole parliaments, in the gross.

I know that the ministers will think it little less than acquittal, that they are not charged with having taken to themselves some part of the money of which they have made so liberal a donation to their partisans, though the charge may be indisputably fixed upon the corruption of their politics. For my part, I follow their crimes to that point to which legal presumptions and natural indications lead me, without considering what species of evil motive tends most to aggravate or to extenuate the guilt of their conduct. But if I am to speak my private sentiments, I think that in a thousand cases for one it would be far less mischievous to the public, and full as little dishonorable to themselves, to be polluted with direct bribery, than thus to become a standing auxiliary to the oppression, usury, and peculation of multitudes, in order to obtain a corrupt support to their power. It is by bribing, not so often by being bribed, that wicked politicians bring ruin on mankind. Avarice is a rival to the pursuits of many. It finds a multitude of checks, and many opposers, in every walk of life. But the objects of ambition are for the few; and every person who aims at indirect profit, and therefore wants other protection than innocence, and law, instead of its rival, becomes its instrument. There is a natural allegiance and fealty due to this domineering paramount evil, from all the vassal vices, which acknowledge its superiority, and readily militate under its banners; and it is under that discipline alone that avarice is able to spread to any considerable extent, or to render itself a general public mischief. It is therefore no apology for ministers that they have not been bought by the East India delinquents, but that they have only formed an alliance with them for screening each other from justice, according to the exigence of their several necessities. That they have done so is evident; and the junction of the power of office in England, with the abuse of authority in the East, has not only prevented even the appearance of redress to the grievances of India, but I wish it may not be found to have

dulled, if not extinguished, the honor, the candor, the generosity, the good nature, which used formerly to characterize the people of England. I confess, I wish that some more feeling than I have yet observed for the sufferings of our fellow-creatures and fellow-subjects in that oppressed part of the world, had manifested itself in any one quarter of the kingdom, or in any one large description of men.

That these oppressions exist, is a fact no more denied, than it is resented as it ought to be. Much evil has been done in India under the British authority. What has been done to redress it? We are no longer surprised at anything. We are above the unlearned and vulgar passion of admiration. But it will astonish posterity, when they read our opinions in our actions, that after years of inquiry we have found out that the sole grievance of India consisted in this, that the servants of the company there had not profited enough of their opportunities, nor drained it sufficiently of its treasures; when they shall hear that the very first and only important act of a commission specially named by act of parliament, is to charge upon an undone country, in favor of a handful of men in the humblest ranks of the public service, the enormous sum of perhaps four millions of sterling money.

It is difficult for the most wise and upright government to correct the abuses of remote delegated power, productive of unmeasured wealth, and protected by the boldness and strength of the same ill-got riches. These abuses, full of their own wild native vigor, will grow and flourish under mere neglect. But where the supreme authority, not content with winking at the rapacity of its inferior instruments, is so shameless and corrupt as openly to give bounties and premiums for disobedience to its laws; when it will not trust to the activity of avarice in the pursuit of its own gains; when it secures public robbery by all the careful jealousy and attention with which it ought to protect property from such violence; the commonwealth then is become totally perverted from its purposes; neither God nor man will long endure it; nor will it long endure itself. In that case, there is an unnatural infection, a pestilential taint fermenting in the constitution of society, which fever and convulsions of some kind or other, must throw off; or in which the vital powers, worsted in an unequal struggle, are pushed back upon themselves, and by a reversal of their whole functions, fester to gangrene, to death; and instead of what was but just now the delight and boast of creation, there will be cast out in the face of the sun, a bloated, putrid, noisome carcase, full of stench and poison, an offence, a horror, a lesson to the world.

In my opinion, we ought not to wait for the fruitless instruction of calamity, to inquire into the abuses which bring upon us ruin in the worst of its forms, in the loss of our fame and virtue. But the right honorable gentleman says, in answer to all the powerful arguments of my honorable friend—"that this inquiry is of a delicate nature, and that the state will suffer detriment, by the exposure of this transaction." But it is exposed; it is perfectly known in every member, in every particle, and in every way, except that which may lead to a remedy He knows that the papers of correspondence are printed, and that they are in every hand.

He and delicacy are a rare and singular coalition. He thinks that to divulge our Indian politics, may be highly dangerous. He! the mover! the chairman! the reporter of the committee of secrecy! he that brought forth in the utmost detail, in several vast, printed folios, the most recondite parts of the politics, the military, the revenues of the British empire in India. With six great chopping bastards, each as lusty as an infant Hercules, this delicate creature blushes at the sight of his new bridegroom, assumes a virgin delicacy; or, to use a more fit, as well as a more poetic comparison, the person so squeamish, so timid, so trembling lest the winds of heaven should visit too roughly, is expanded to broad sunshine, exposed like the sow of imperial augury, lying in the mud with all the prodigies of her fertility about her, as evidence of her delicate amours—*Triginta capitum fœtus enixa jacebat, alba solo recubans albi circum ubera nati.*

Whilst discovery of the misgovernment of others, led to his own power, it was wise to inquire; it was safe to publish: there was then no danger. But when his object is obtained, and in his imitation he has outdone the crimes that he had reprobated in volumes of reports, and in sheets of bills of pains and penalties, then concealment becomes prudence; and it concerns the safety of the state, that we should not know, in a mode of parliamentary cognizance, what all the world knows but too well: that is, in what manner he chooses to dispose of the public revenues to the creatures of his politics.

The debate has been long, and as much so on my part, at least, as on the part of those who have spoken before me. But long as it is, the more material half of the subject has hardly been touched on; that is, the corrupt and destructive system to which this debt has been rendered subservient, and which seems to be pursued with at least as much vigor and regularity as ever. If I considered your ease or my own, rather than the weight and importance of this question, I ought to

make some apology to you, perhaps some apology to myself for having detained your attention so long. I know on what ground I tread. This subject, at one time taken up with so much fervor and zeal, is no longer a favorite in this house. The house itself has undergone a great and signal revolution. To some, the subject is strange and uncouth; to several, harsh and distasteful; to the relics of the last parliament, it is a matter of fear and apprehension. It is natural for those who have seen their friends sink in the tornado which raged during the late shift of the monsoon, and have hardly escaped on the planks of the general wreck, it is but too natural for them, as soon as they make the rocks and quicksands of their former disasters, to put about their new-built barks, and, as much as possible, to keep aloof from this perilous lee-shore.

But let us do what we please to put India from our thoughts, we can do nothing to separate it from our public interest and our national reputation. Our attempts to banish this importunate duty, will only make it return upon us again and again, and every time in a shape more unpleasant than the former. A government has been fabricated for that great province; the right honorable gentleman says, that therefore you ought not to examine into its conduct. Heaven! what an argument is this! We are not to examine into the conduct of the direction, because it is an old government; we are not to examine into this board of control, because it is a new one. Then we are only to examine into the conduct of those who have no conduct to account for. Unfortunately the basis of this new government has been laid on old condemned delinquents, and its superstructure is raised out of prosecutors turned into protectors. The event has been such as might be expected. But if it had been otherwise constituted; had it been constituted even as I wished, and as the mover of this question had planned, the better part of the proposed establishment was in the publicity of its proceedings; in its perpetual responsibility to parliament. Without this check, what is our government at home, even awed, as every European government is, by an audience formed of the other states of Europe, by the applause or condemnation of the discerning and critical company before which it acts? But if the scene on the other side the globe, which tempts, invites, almost compels to tyranny and rapine, be not inspected with the eye of a severe and unremitting vigilance, shame and destruction must ensue. For one, the worst event of this day, though it may deject, shall not break or subdue me. The call upon us is authoritative. Let who will shrink back, I shall be

found at my post. Baffled, discountenanced, subdued, discredited, as the cause of justice and humanity is, it will be only the dearer to me. Whoever, therefore, shall at any time bring before you anything towards the relief of our distressed fellow-citizens in India, and towards a subversion of the present most corrupt and oppressive system for its government, in me shall find a weak, I am afraid, but a steady, earnest, and faithful assistant.

MR. BURKE'S SPEECH,

ON THE BILL

FOR THE RELIEF OF PROTESTANT DISSENTERS.

I ASSURE you, Sir, that the honorable gentleman, who spoke last but one, need not be in the least fear that I should make a war of particles upon his opinion, whether the church of England *should*, *would*, or *ought* to be alarmed. I am very clear that this house has no one reason in the world to think she is alarmed by the bill brought before you. It is something extraordinary that the only symptom of alarm in the church of England should appear in the petition of some dissenters; with whom, I believe, very few in this house are yet acquainted; and of whom you know no more than you are assured by the honorable gentleman, that they are not Mahometans. Of the church we know they are not, by the name that they assume. They are then dissenters. The first symptom of an alarm comes from some dissenters assembled round the lines of Chatham: these lines become the security of the church of England! The honorable gentleman, in speaking of the lines of Chatham, tells us, that they serve not only for the security of the wooden walls of England, but for the defence of the church of England. I suspect, the wooden walls of England secure the lines of Chatham, rather than the lines of Chatham secure the wooden walls of England.

Sir, the church of England, if only defended by this miserable petition upon your table, must, I am afraid, upon the principles of true fortification, be soon destroyed. But fortunately her walls, bulwarks, and bastions, are constructed of other materials than of stubble and straw; are built up with the strong and stable matter of the gospel of liberty, and founded on a true, constitutional, legal establishment. But, Sir, she has other securities; she has the security of her own doctrines; she has the security of the piety, the sanctity of her own professors; their learning is a bulwark to defend her; she has the security of the two universities, not shook in any single battlement, in any single pinnacle.

But the honorable gentleman has mentioned, indeed, principles which astonish me rather more than ever. The honorable gentleman thinks that the dissenters enjoy a large share o

liberty under a connivance; and he thinks that the establishing toleration by law is an attack upon Christianity.

The first of these is a contradiction in terms. Liberty under a connivance! Connivance is a relaxation from slavery, not a definition of liberty. What is connivance, but a state under which all slaves live? If I was to describe slavery, I would say with those who *hate* it, it is living under will, not under law: if, as it is stated by its advocates, I would say, that, like earthquakes, like thunder, or other wars the elements make upon mankind, it happens rarely, it occasionally comes now and then upon people, who upon ordinary occasions enjoy the same legal government of liberty. Take it under the description of those who would soften those features, the state of slavery and connivance is the same thing. If the liberty enjoyed be a liberty not of toleration, but of connivance, the only question is, whether establishing such a law is an attack upon Christianity. Toleration an attack upon Christianity! What then, are we come to this pass, to suppose that nothing can support Christianity, but the principles of persecution? Is that then the idea of Christianity itself, that it ought to have establishments, that it ought to have laws against dissenters, but the breach of which laws is to be connived at? What a picture of toleration; what a picture of laws, of establishments; what a picture of religious and civil liberty! I am persuaded the honorable gentleman does not see it in this light. But these very terms become the strongest reasons for my support of the bill; for I am persuaded that toleration, so far from being an attack upon Christianity, becomes the best and surest support that possibly can be given to it. The Christian religion itself arose without establishment, it arose even without toleration; and whilst its own principles were not tolerated, it conquered all the powers of darkness, it conquered all the powers of the world. The moment it began to depart from these principles, it converted the establishment into tyranny; it subverted its foundations from that very hour. Zealous as I am for the principle of an establishment, so just an abhorrence do I conceive against whatever may shake it. I know nothing but the supposed necessity of persecution that can make an establishment disgusting. I would have toleration a part of the establishment, as a principle favorable to Christianity, and as a part of christianity.

All seem agreed that the law, as it stands, inflicting penalties on all religious teachers and on schoolmasters, who do not sign the thirty-nine articles of religion, ought not to be executed We are all agreed that *the law is not good;* for that, I presume, is undoubtedly the idea of a law that ought not to be executed.

The question therefore is, whether in a well-constituted commonwealth, which we desire ours to be thought, and I trust, intend that it should be, whether in such a commonwealth it is wise to retain those laws which it is not proper to execute. A penal law, not ordinarily put in execution, seems to me to be a very absurd and a very dangerous thing. For if its principle be right, if the object of its prohibitions and penalties be a real evil, then you do in effect permit that very evil, which not only the reason of the thing, but your very law, declares ought not to be permitted; and thus it reflects exceedingly on the wisdom, and consequently derogates not a little from the authority of a legislature, who can at once forbid and suffer, and in the same breath promulgate penalty and indemnity to the same persons, and for the very same actions. But if the object of the law be no moral or political evil, then you ought not to hold even a terror to those, whom you ought certainly not to punish—for if it is not right to hurt, it is neither right nor wise to menace. Such laws, therefore, as they must be defective either in justice or wisdom, or both, so they cannot exist without a considerable degree of danger. Take them which way you will, they are prest with ugly alternatives.

1st. All penal laws are either upon popular prosecution, or on the part of the crown. Now, if they may be roused from their sleep, whenever a minister thinks proper, as instruments of oppression, then they put vast bodies of men into a state of slavery and court dependence; since their liberty of conscience and their power of executing their functions depend entirely on his will. I would have no man derive his means of continuing any function, or his being restrained from it, but from the laws only; they should be his only superior and sovereign lords.

2d. They put statesmen and magistrates into a habit of playing fast and loose with the laws, straining or relaxing them as may best suit their political purposes; and, in that light, tend to corrupt the executive power through all its offices.

3d. If they are taken up on popular actions, their operation in that light also is exceedingly evil. They become the instruments of private malice, private avarice, and not of public regulation; they nourish the worst of men to the prejudice of the best, punishing tender consciences, and rewarding informers.

Shall we, as the honorable gentleman tells us we may with perfect security, trust to the manners of the age? I am well pleased with the general manners of the times; but the desultory execution of penal laws, the thing I condemn, does not depend on the manners of the times. I would however have the laws tuned in unison with the manners—very dissonant are a gentle country and cruel laws; very dissonant that your reason is

furious but your passions moderate, and that you are always equitable except in your courts of justice.

I will beg leave to state to the house one argument, which has been much relied upon—that the dissenters are not unanimous upon this business; that many persons are alarmed; that it will create a disunion among the dissenters.

When any dissenters, or any body of people, come here with a petition, it is not the number of people, but the reasonableness of the request, that should weigh with the house. A body of dissenters come to this house, and say, Tolerate us—we desire neither the parochial advantage of tithes, nor dignities, nor the stalls of your cathedrals: No! let the venerable orders of the hierarchy exist with all their advantages. And shall I tell them, I reject your just and reasonable petition, not because it shakes the church, but because there are others, while you lie grovelling upon the earth, that will kick and bite you? Judge which of these descriptions of men comes with a fair request—that which says, Sir, I desire liberty for my own, because I trespass on no man's conscience;—or the other, which says, I desire that these men should not be suffered to act according to their consciences, though I am tolerated to act according to mine. But I sign a body of articles, which is my title to toleration; I sign no more, because more are against my conscience. But I desire that you will not tolerate these men, because they will not go so far as I, though I desire to be tolerated, who will not go as far as you. No: imprison them, if they come within five miles of a corporate town, because they do not believe what I do in point of doctrines.

Shall I not say to these men, *arrangez vous canaille*. You, who are not the predominant power, will not give to others the relaxation under which you are yourself suffered to live. I have as high an opinion of the doctrines of the church as you. I receive them implicitly, or I put my own explanation on them, or take that which seems to me to come best recommended by authority. There are those of the dissenters who think more rigidly of the doctrine of the articles relative to predestination, than others do. They sign the article relative to it *ex animo* and literally. Others allow a latitude of construction. These two parties are in the church, as well as among the dissenters; yet, in the church, we live quietly under the same roof. I do not see why, as long as Providence gives us no further light into this great mystery, we should not leave things as the divine wisdom has left them. But suppose all these things to me to be clear (which Providence however seems to have left obscure), yet whilst dissenters claim a toleration in things, which seeming clear to me, are obscure to them, without entering into the merit

of the articles, with what face can these men say, Tolerate us, but do not tolerate them? Toleration is good for all, or it is good for none.

The discussion this day is not between establishment on one hand, and toleration on the other; but between those who, being tolerated themselves, refuse toleration to others. That power should be puffed up with pride, that authority should degenerate into rigor, if not laudable, is but too natural. But this proceeding of theirs is much beyond the usual allowance to human weakness; it not only is shocking to our reason, but it provokes our indignation. *Quid domini facient, audent cum talia fures?* It is not the proud prelate thundering in his commission court, but a pack of manumitted slaves, with the lash of the beadle flagrant on their backs, and their legs still galled with their fetters, that would drive their brethren into that prison-house from whence they have just been permitted to escape. If, instead of puzzling themselves in the depths of the divine counsels, they would turn to the mild morality of the gospel, they would read their own condemnation—O, thou wicked servant, I forgave thee all that debt because thou desiredst me: shouldest not thou also have compassion on thy fellow-servant, even as I had pity on thee?

In my opinion, Sir, a magistrate, whenever he goes to put any restraint upon religious freedom, can only do it upon this ground, that the person dissenting does not dissent from the scruples of ill-informed conscience, but from a party ground of dissension, in order to raise a faction in the state. We give, with regard to rites and ceremonies, an indulgence to tender consciences. But if dissent is at all punished in any country, if at all it can be punished upon any pretence, it is upon a presumption, not that a man is supposed to differ conscientiously from the establishment, but that he resists truth for the sake of faction; that he abets diversity of opinions in religion to distract the state, and to destroy the peace of his country. This is the only plausible, for there is no true ground of persecution. As the laws stand, therefore, let us see how we have thought fit to act.

If there is any one thing within the competency of a magistrate with regard to religion, it is this, that he has a right to direct the exterior ceremonies of religion; that whilst interior religion is within the jurisdiction of God alone, the external part, bodily action, is within the province of the chief governor. Hooker, and all the great lights of the church, have constantly argued this to be a part within the province of the civil magistrate: but look at the act of toleration of William and Mary,

there you will see the civil magistrate has not only dispensed with those things which are more particularly within his province, with those things which faction might be supposed to take up for the sake of making visible and external divisions, and raising a standard of revolt, but has also, from sound politic considerations, relaxed on those points which are confessedly without his province.

The honorable gentleman, speaking of the heathens, certainly could not mean to recommend anything that is derived from that impure source. But he has praised the tolerating spirit of the heathens. Well! but the honorable gentleman will recollect that heathens, that polytheists, must permit a number of divinities. It is the very essence of its constitution. But was it ever heard that polytheism tolerated a dissent from a polytheistic establishment? the belief of one God only? Never, never! Sir, they constantly carried on persecution against that doctrine. I will not give heathens the glory of a doctrine which I consider the best part of Christianity. The honorable gentleman must recollect the Roman law that was clearly against the introduction of any foreign rites in matters of religion. You have it at large in Livy, how they persecuted in the first introduction the rites of Bacchus: and even before Christ, to say nothing of their subsequent persecutions, they persecuted the druids and others. Heathenism, therefore, as in other respects erroneous, was erroneous in point of persecution. I do not say, every heathen, who persecuted, was therefore an impious man: I only say he was mistaken, as such a man is now. But, says the honorable gentleman, they did not persecute epicureans. No; the epicureans had no quarrel with their religious establishment, nor desired any religion for themselves. It would have been very extraordinary, if irreligious heathens had desired either a religious establishment or toleration. But, says the honorable gentleman, the epicureans entered, as others, into the temples. They did so; they defied all subscription; they defied all sorts of conformity; there was no subscription to which they were not ready to set their hands, no ceremonies they refused to practise; they made it a principle of their irreligion, outwardly to conform to any religion. These atheists eluded all that you could do; so will all freethinkers for ever. Then you suffer, or the weakness of your law has suffered, those great dangerous animals to escape notice, whilst you have nets that entangle the poor fluttering silken wings of a tender conscience.

The honorable gentleman insists much upon this circumstance of objection, namely, the division amongst the dissenters. Why, Sir, the dissenters by the nature of the term are open to have a division among themselves. They are dissenters, because they

differ from the church of England; not that they agree among themselves. There are presbyterians, there are independents, some that do not agree to infant-baptism, others that do not agree to the baptism of adults, or any baptism. All these are however tolerated under the acts of King William, and subsequent acts; and their diversity of sentiments with one another did not, and could not, furnish an argument against their toleration, when their difference with ourselves furnished none.

But, says the honorable gentleman, if you suffer them to go on, they will shake the fundamental principles of Christianity. Let it be considered that this argument goes as strongly against connivance, which you allow, as against toleration, which you reject. The gentleman sets out with a principle of perfect liberty, or, as he describes it, connivance. But for fear of dangerous opinions, you leave it in your power to vex a man who has not held any one dangerous opinion whatsoever. If one man is a professed atheist, another man the best Christian, but dissents from two of the thirty-nine articles, I may let escape the atheist, because I know him to be an atheist, because I am perhaps so inclined myself, and because I may connive where I think proper; but the conscientious dissenter, on account of his attachment to that general religion, which perhaps I hate, I shall take care to punish, because I may punish when I think proper. Therefore, connivance being an engine of private malice or private favor, not of good government; an engine, which totally fails of suppressing atheism, but oppresses conscience; I say, that principle becomes not serviceable, but dangerous to Christianity; that it is not toleration, but contrary to it, even contrary to peace; that the penal system to which it belongs is a dangerous principle in the economy either of religion or government.

The honorable gentleman, and in him I comprehend all those who oppose the bill, bestowed in support of their side of the question as much argument as it could bear, and much more of learning and decoration than it deserved. He thinks connivance consistent, but legal toleration inconsistent with the interests of Christianity. Perhaps I would go as far as that honorable gentleman, if I thought toleration inconsistent with those interests. God forbid! I may be mistaken, but I take toleration to be a part of religion. I do not know which I would sacrifice; I would keep them both; it is not necessary I should sacrifice either. I do not like the idea of tolerating the doctrines of Epicurus: but nothing in the world propagates them so much as the oppression of the poor, of the honest, and candid disciples of the religion we profess in common, I mean revealed religion; nothing sooner makes them take a short cut out of the bondage of sectarian vexation, into open and direct infidelity, than tor-

menting men for every difference. My opinion is, that in establishing the Christian religion wherever you find it, curiosity or research is its best security; and in this way a man is a great deal better justified in saying, tolerate all kinds of consciences, than in imitating the heathens, whom the honorable gentleman quotes, in tolerating those who have none. I am not over-fond of calling for the secular arm upon these misguided or misguiding men; but if ever it ought to be raised, it ought surely to be raised against these very men, not against others, whose liberty of religion you make a pretext for proceedings which drive them into the bondage of impiety. What figure do I make in saying, I do not attack the works of these atheistical writers, but I will keep a rod hanging over the conscientious man, their bitterest enemy, because these atheists may take advantage of the liberty of their foes, to introduce irreligion? The best book that ever perhaps has been written against these people, is that in which the author has collected in a body the whole of the infidel code, and has brought the writers into one body to cut them all off together. This was done by a dissenter, who never did subscribe the thirty-nine articles—Dr. Leland. But if, after all, this danger is to be apprehended, if you are really fearful that Christianity will indirectly suffer by this liberty, you have my free consent; go directly and by the straight way, and not by a circuit in which in your road you may destroy your friends: point your arms against these men, who do the mischief you fear promoting; point your arms against men, who, not contented with endeavoring to turn your eyes from the blaze and effulgence of light, by which life and immortality is so gloriously demonstrated by the gospel, would even extinguish that faint glimmering of nature, that only comfort supplied to ignorant man before this great illumination—those, who, by attacking even the possibility of all revelation, arraign all the dispensations of providence to man. These are the wicked dissenters you ought to fear; these are the people against whom you ought to aim the shaft of the law; these are the men to whom, arrayed in all the terrors of government, I would say, you shall not degrade us into brutes; these men, these factious men, as the honorable gentleman properly called them, are the just objects of vengeance, not the conscientious dissenter; these men, who would take away whatever ennobles the rank or consoles the misfortunes of human nature, by breaking off that connexion of observances, of affections, of hopes and fears, which bind us to the divinity, and constitute the glorious and distinguishing prerogative of humanity, that of being a religious creature; against these I would have the laws rise in all their majesty of

terrors, to fulminate such vain and impious wretches, and to awe them into impotence by the only dread they can fear or believe, to learn that eternal lesson—*Discite justitiam moniti, et non temnere Divos.*

At the same time that I would cut up the very root of atheism, I would respect all conscience, all conscience that is really such, and which, perhaps, its very tenderness proves to be sincere. I wish to see the established church of England great and powerful; I wish to see her foundations laid low and deep, that she may crush the giant powers of rebellious darkness; I would have her head raised up to that Heaven to which she conducts us. I would have her open wide her hospitable gates by a noble and liberal comprehension; but I would have no breaches in her wall; I would have her cherish all those who are within, and pity all those who are without; I would have her a common blessing to the world, an example, if not an instructor, to those who have not the happiness to belong to her; I would have her give a lesson of peace to mankind, that a vexed and wandering generation might be taught to seek for repose and toleration in the maternal bosom of Christian charity, and not in the harlot lap of infidelity and indifference. Nothing has driven people more into that house of seduction than the mutual hatred of Christian congregations. Long may we enjoy our church under a learned and edifying episcopacy. But episcopacy may fail, and religion exist. The most horrid and cruel blow that can be offered to civil society is through atheism. Do not promote diversity; when you have it, bear it; have as many sorts of religion as you find in your country; there is a reasonable worship in them all. The others, the infidels, are outlaws of the constitution; not of this country, but of the human race. They are never, never to be supported, never to be tolerated. Under the systematic attacks of these people, I see some of the props of good government already begin to fail; I see propagated principles, which will not leave to religion even a toleration. I see myself sinking every day under the attacks of these wretched people—How shall I arm myself against them? by uniting all those in affection who are united in the belief of the great principles of the Godhead that made and sustains the world. They who hold revelation give double assurance to the country. Even the man who does not hold revelation, yet who wishes that it were proved to him, who observes a pious silence with regard to it, such a man, though not a Christian, is governed by religious principles. Let him be tolerated in this country. Let it be but a serious religion, natural or revealed, take what you can get; cherish, blow up the slighest spark. One day it may be a pure and holy flame.

By this proceeding you form an alliance, offensive and defensive, against those great ministers of darkness in the world, who are endeavoring to shake all the works of God established in order and beauty. Perhaps I am carried too far; but it is in the road into which the honorable gentleman has led me. The honorable gentleman would have us fight this confederacy of the powers of darkness with the single arm of the church of England; would have us not only fight against infidelity, but fight at the same time with all the faith in the world except our own. In the moment we make a front against the common enemy, we have to combat with all those who are the natural friends of our cause, Strong as we are, we are not equal to this. The cause of the church of England is included in that of religion, not that of religion in the church of England. I will stand up at all times for the rights of conscience, as it is such, not for its particular modes against its general principles. One may be right, another mistaken; but if I have more strength than my brother, it shall be employed to support, not to oppress his weakness; if I have more light, it shall be used to guide not to dazzle him.

EXTRACT FROM THE

SPEECH OF MR. BURKE,

UPON

MR. FOX'S EAST INDIA BILL.

MR. SPEAKER,

I THANK you for pointing to me. I really wished much to engage your attention in an early stage of the debate. I have been long very deeply, though perhaps ineffectually, engaged the preliminary inquiries, which have continued without intermission for some years. Though I have felt, with some degree of sensibility, the natural and inevitable impressions of the several matters of fact, as they have been successively disclosed, I have not at any time attempted to trouble you on the merits of the subject; and very little on any of the points which incidentally arose in the course of our proceedings. But I should be sorry to be found totally silent upon this day. Our inquiries are now come to their final issue:—It is now to be determined whether the three years of laborious parliamentary research, whether the twenty years of patient Indian suffering, are to produce a substantial reform in our eastern administration; or whether our knowledge of the grievances has abated our zeal for the correction of them, and our very inquiry into the evil was only a pretext to elude the remedy which is demanded from us by humanity, by justice, and by every principle of true policy. Depend upon it, this business cannot be indifferent to our fame. It will turn out a matter of great disgrace or great glory to the whole British nation. We are on a conspicuous stage, and the world marks our demeano·

I am therefore a little concerned to perceive the spirit and temper in which the debate has been all along pursued upon one side of the house. The declamation of the gentlemen who oppose the bill has been abundant and vehement; but they have been reserved and even silent about the fitness or unfitness of the plan to attain the direct object it has in view. By some gentlemen it is taken up (by way of exercise, I presume) as a point of law on a question of private property, and corporate franchise; by others it is regarded as the petty intrigue of a faction at court, and argued merely as it tends to set this man a little higher, or that a little lower in situation and power. All the void has been filled up with invectives against coalition; with allusions to the loss of America; with the activity and

inactivity of ministers. The total silence of these gentlemen concerning the interest and well-being of the people of India, and concerning the interest which this nation has in the commerce and revenues of that country, is a strong indication of the value which they set upon these objects.

It has been a little painful to me to observe the intrusion into this important debate of such company as *quo warranto*, and *mandamus*, and *certiorari;* as if we were on a trial about mayors and aldermen, and capital burgesses; or engaged in a suit concerning the borough of Penryn, or Saltash, or St. Ives, or St. Mawes. Gentlemen have argued with as much heat and passion, as if the first things in the world were at stake; and their topics are such, as belong only to matter of the lowest and meanest litigation. It is not right, it is not worthy of us, in this manner to depreciate the value, to degrade the majesty, of this grave deliberation of policy and empire.

For my part, I have thought myself bound, when a matter of this extraordinary weight came before me, not to consider (as some gentlemen are so fond of doing) whether the bill originated from a secretary of state for the home department, or from a secretary for the foreign; from a minister of influence or a minister of the people; from Jacob or from Esau. I asked myself, and I asked myself nothing else, what part it was fit for a member of parliament, who has supplied a mediocrity of talents by the extreme of diligence, and who has thought himself obliged, by the research of years, to wind himself into the inmost recesses and labyrinths of the Indian detail, what part, I say, it became such a member of parliament to take, when a minister of state, in conformity to a recommendation from the throne, has brought before us a system for the better government of the territory and commerce of the east. In this light, and in this only, I will trouble you with my sentiments.

It is not only agreed but demanded, by the right honorable gentleman, and by those who act with him, that a *whole* system ought to be produced; that it ought not to be an *half measure;* that it ought to be no *palliative;* but a legislative provision, vigorous, substantial, and effective.—I believe that no man who understands the subject can doubt for a moment, that those must be the conditions of anything deserving the name of a reform in the Indian government: that anything short of them would not only be delusive, but, in this matter which admits no medium, noxious in the extreme.

To all the conditions proposed by his adversaries, the mover of the bill perfectly agrees; and on his performance of them he rests his cause. On the other hand, not the least objection has been taken, with regard to the efficiency, the vigor, or the

completeness of the scheme. I am therefore warranted to assume, as a thing admitted, that the bills accomplish what both sides of the house demand as essential. The end is completely answered, so far as the direct and immediate object is concerned.

But though there are no direct, yet there are various collateral objections made; objections from the effects which this plan of reform for Indian administration may have on the privileges of great public bodies in England; from its probable influence on the constitutional rights, or on the freedom and integrity of the several branches of the legislature.

Before I answer these objections, I must beg leave to observe, that if we are not able to contrive some method of governing India *well*, which will not of necessity become the means of governing Great Britain *ill*, a ground is laid for their eternal separation; but none for sacrificing the people of that country to our constitution. I am however far from being persuaded that any such incompatibility of interest does at all exist. On the contrary, I am certain that every means, effectual to preserve India from oppression, is a guard to preserve the British constitution from its worst corruption. To show this, I will consider the objections, which I think are four.

1st. That the bill is an attack on the chartered rights of men.

2dly. That it increases the influence of the crown.

3dly. That it does *not* increase, but diminishes, the influence of the crown, in order to promote the interests of certain ministers and their party.

4thly. That it deeply affects the national credit.

As to the first of these objections; I must observe that the phrase of "the chartered rights *of men*," is full of affectation; and very unusual in the discussion of privileges conferred by charters of the present description. But it is not difficult to discover what end that ambiguous mode of expression, so often reiterated, is meant to answer.

The rights of *men*, that is to say, the natural rights of mankind, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. If these natural rights are further affirmed and declared by express covenants, if they are clearly defined and secured against chicane, against power, and authority, by written instruments and positive engagements, they are in a still better condition: they partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures an object of such importance. Indeed this formal recognition, by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding

radical principles of government, and even of society itself. The charters, which we call by distinction *great*, are public instruments of this nature; I mean the charters of king John and king Henry the third. The things secured by these instruments may, without any deceitful ambiguity, be very fitly called the *chartered rights of men.*

These charters have made the very name of a charter dear to the heart of every Englishman.—But, Sir, there may be, and there are charters, not only different in nature, but formed on principles the *very reverse* of those of the great charter. Of this kind is the charter of the East India company. *Magna charta* is a charter to restrain power, and to destroy monopoly. The East India charter is a charter to establish monopoly, and to create power. Political power and commercial monopoly are *not* the rights of men; and the rights of them derived from charters, it is fallacious and sophistical to call "the chartered rights of men." These chartered rights, (to speak of such charters and of their effects in terms of the greatest possible moderation,) do at least suspend the natural rights of mankind at large; and in their very frame and constitution are liable to fall into a direct violation of them.

It is a charter of this latter description (that is to say, a charter of power and monopoly) which is affected by the bill before you. The bill, Sir, does, without question, affect it; it does affect it essentially and substantially. But having stated to you of what description the chartered rights are which this bill touches, I feel no difficulty at all in acknowledging the existence of those chartered rights, in their fullest extent. They belong to the company in the surest manner; and they are secured to that body by every sort of public sanction. They are stamped by the faith of the king; they are stamped by the faith of parliament; they have been bought for money, for money honestly and fairly paid; they have been bought for valuable consideration, over and over again.

I therefore freely admit to the East India company their claim to exclude their fellow-subjects from the commerce of half the globe. I admit their claim to administer an annual territorial revenue of seven millions sterling; to command an army of sixty thousand men; and to dispose, (under the control of a sovereign imperial discretion, and with the due observance of the natural and local law) of the lives and fortunes of thirty millions of their fellow-creatures. All this they possess by charter and by acts of parliament, (in my opinion,) without a shadow of controversy.

Those who carry the rights and claims of the company the furthest do not contend for more than this; and all this I freely

grant. But granting all this, they must grant to me in my turn, that all political power which is set over men, and that all privilege claimed or exercised in exclusion of them, being wholly artificial, and for so much a derogation from the natural equality of mankind at large, ought to be some way or other exercised ultimately for their benefit.

If this is true with regard to every species of political dominion, and every description of commercial privilege, none of which can be original self-derived rights, or grants for the mere private benefit of the holders, then such rights, or privileges, or whatever else you choose to call them, are all in the strictest sense a *trust;* and it is of the very essence of every trust to be rendered *accountable;* and even totally to *cease,* when it substantially varies from the purposes for which alone it could have a lawful existence.

This I conceive, Sir, to be true of trusts of power vested in the highest hands, and of such as seem to hold of no human creature. But about the application of this principle to subordinate *derivative* trusts, I do not see how a controversy can be maintained. To whom then would I make the East India company accountable? Why, to parliament, to be sure; to parliament, from whom their trust was derived; to parliament, which alone is capable of comprehending the magnitude of its object, and its abuse; and alone capable of an effectual legislative remedy. The very charter, which is held out to exclude parliament from correcting malversation with regard to the high trust vested in the company, is the very thing which at once gives a title and imposes a duty on us to interfere with effect, wherever power and authority originating from ourselves are perverted from their purposes, and become instruments of wrong and violence.

If parliament, Sir, had nothing to do with this charter, we might have some sort of Epicurean excuse to stand aloof, indifferent spectators of what passes in the company's name in India and in London. But if we are the very cause of the evil, we are in a special manner engaged to the redress; and for us passively to bear with oppressions committed under the sanction of our own authority, is in truth and reason for this house to be an active accomplice in the abuse.

That the power notoriously, grossly abused has been bought from us is very certain. But this circumstance, which is urged against the bill, becomes an additional motive for our interference; lest we should be thought to have sold the blood of millions of men, for the base consideration of money. We sold, I admit, all that we had to sell; that is, our authority,

not our control. We had not a right to make a market of our duties.

I ground myself therefore on this principle — that if the abuse is proved, the contract is broken; and we re-enter into all our rights; that is, into the exercise of all our duties. Our own authority is indeed as much a trust originally, as the company's authority is a trust derivatively; and it is the use we make of the resumed power that must justify or condemn us in the resumption of it. When we have perfected the plan laid before us by the right honorable mover, the world will then see what it is we destroy, and what it is we create. By that test we stand or fall; and by that test I trust that it will be found in the issue, that we are going to supersede a charter abused to the full extent of all the powers which it could abuse, and exercised in the plenitude of despotism, tyranny, and corruption; and that in one and the same plan, we provide a real chartered security for the *rights of men* cruelly violated under that charter.

This bill, and those connected with it, are intended to form the *magna charta* of Hindostan. Whatever the treaty of Westphalia is to the liberty of the princes and free cities of the empire, and to the three religions there professed—Whatever the great charter, the statute of tallage, the petition of right, and the declaration of right, are to Great Britain, these bills are to the people of India. Of this benefit, I am certain, their condition is capable; and when I know that they are capable of more, my vote shall most assuredly be for our giving to the full extent of their capacity of receiving; and no charter of dominion shall stand as a bar in my way to their charter of safety and protection.

The strong admission I have made of the company's rights (I am conscious of it) binds me to do a great deal. I do not presume to condemn those who argue *a priori*, against the propriety of leaving such extensive political powers in the hands of a company of merchants. I know much is, and much more may be, said against such a system. But, with my particular ideas and sentiments, I cannot go that way to work. I feel an insuperable reluctance in giving my hand to destroy any established institution of government, upon a theory, however plausible it may be. My experience in life teaches me nothing clear upon the subject. I have known merchants with the sentiments and the abilities of great statesmen; and I have seen persons in the rank of statesmen, with the conceptions and characters of pedlars. Indeed, my observation has furnished me with nothing that is to be found in any habits of life or education, which tends wholly to disqualify men for the func

tions of government, but that, by which the power of exercising those functions is very frequently obtained, I mean a spirit and habits of low cabal and intrigue; which I have never, in one instance, seen united with a capacity for sound and manly policy.

To justify us in taking the administration of their affairs out of the hands of the East India company, on my principles, I must see several conditions. 1st. The object affected by the abuse should be great and important. 2d. The abuse affecting this great object ought to be a great abuse. 3d. It ought to be habitual, and not accidental. 4th. It ought to be utterly incurable in the body as it now stands constituted. All this ought to be made as visible to me as the light of the sun, before I should strike off an atom of their charter. A right honorable gentleman has said, and said I think but once, and that very slightly (whatever his original demand for a plan might seem to require) that "there are abuses in the company's government." If that were all, the scheme of the mover of this bill, the scheme of his learned friend, and his own scheme of reformation (if he has any) are all equally needless. There are, and must be, abuses in all governments. It amounts to no more than a nugatory proposition. But before I consider of what nature these abuses are, of which the gentleman speaks so very lightly, permit me to recall to your recollection the map of the country which this abused chartered right affects. This I shall do, that you may judge whether in that map I can discover anything like the first of my conditions; that is, Whether the object affected by the abuse of the East India company's power be of importance sufficiently to justify the measure and means of reform applied to it in this bill.

With very few, and those inconsiderable intervals, the British dominion, either in the company's name, or in the names of princes absolutely dependent upon the company, extends from the mountains that separate India from Tartary, to cape Comorin, that is, one-and-twenty degrees of latitude!

In the northern parts it is a solid mass of land, about eight hundred miles in length, and four or five hundred broad. As you go southward, it becomes narrower for a space. It afterwards dilates; but narrower or broader, you possess the whole eastern and north-eastern coast of that vast country, quite from the borders of Pegu.—Bengal, Bahar, and Orissa, with Benares, (now unfortunately in our immediate possession,) measure 161,976 square English miles; a territory considerably larger than the whole kingdom of France. Oude, with its dependent provinces, is 53,286 square miles, not a great deal less than England. The Carnatic, with Tanjore and the Circars, is

65,948 square miles, very considerably larger than England; and the whole of the company's dominions, comprehending Bombay and Salsette, amounts to 281,412 square miles; which forms a territory larger than any European dominion, Russia and Turkey excepted. Through all that vast extent of country there is not a man who eats a mouthful of rice but by permission of the East India company.

So far with regard to the extent. The population of this great empire is not easy to be calculated. When the countries, of which it is composed, came into our possession, they were all eminently peopled, and eminently productive; though at that time considerably declined from their ancient prosperity. But since they are come into our hands!——! However, if we make the period of our estimate immediately before the utter desolation of the Carnatic, and if we allow for the havoc which our government had even then made in these regions, we cannot, in my opinion, rate the population at much less than thirty millions of souls; more than four times the number of persons in the island of Great Britain.

My next inquiry to that of the number, is the quality and description of the inhabitants. This multitude of men does not consist of an abject and barbarous populace; much less of gangs of savages, like the Guaranies and Chiquitos, who wander on the waste borders of the river of Amazons, or the Plate; but a people for ages civilized and cultivated; cultivated by all the arts of polished life, whilst we were yet in the woods. There, have been (and still the skeletons remain) princes once of great dignity, authority, and opulence. There, are to be found the chiefs of tribes and nations. There, is to be found an ancient and venerable priesthood, the depository of their laws, learning, and history, the guides of the people whilst living, and their consolation in death; a nobility of great antiquity and renown; a multitude of cities, not exceeded in population and trade by those of the first class in Europe; merchants and bankers, individual houses of whom have once vied in capital with the bank of England; whose credit had often supported a tottering state, and preserved their governments in the midst of war and desolation; millions of ingenious manufacturers and mechanics; millions of the most diligent, and not the least intelligent, tillers of the earth. Here are to be found almost all the religions professed by men; the Braminical, the Mussulman, the Eastern and the Western Christian.

If I were to take the whole aggregate of our possessions there, I should compare it, as the nearest parallel I can find, with the empire of Germany. Our immediate possessions I should compare with the Austrian dominions, and they would

not suffer in the comparison. The nabob of Oude might stand for the King of Prussia; the nabob of Arcot I would compare, as superior in territory, and equal in revenue, to the elector of Saxony. Cheyt Sing, the rajah of Benares, might well rank with the prince of Hesse, at least; and the rajah of Tanjore (though hardly equal in extent of dominion, superior in revenue) to the elector of Bavaria. The Polygars and the northern Zemindars, and other great chiefs, might well class with the rest of the princes, dukes, counts, marquises, and bishops in the empire; all of whom I mention to honor, and surely without disparagement to any or all of those most respectable princes and grandees.

All this vast mass, composed of so many orders and classes of men, is again infinitely diversified by manners, by religion, by hereditary employment, through all their possible combinations. This renders the handling of India a matter in a high degree critical and delicate. But oh! it has been handled rudely indeed. Even some of the reformers seem to have forgot that they had anything to do but to regulate the tenants of a manor, or the shopkeepers of the next county town.

It is an empire of this extent, of this complicated nature, of this dignity and importance, that I have compared to Germany, and the German government; not for an exact resemblance, but as a sort of a middle term, by which India might be approximated to our understandings, and if possible to our feelings; in order to awaken something of sympathy for the unfortunate natives, of which I am afraid we are not perfectly susceptible, whilst we look at this very remote object through a false and cloudy medium.

My second condition, necessary to justify me in touching the charter, is, Whether the company's abuse of their trust, with regard to this great object, be an abuse of great atrocity. I shall beg your permission to consider their conduct in two lights; first the political, and then the commercial. Their political conduct (for distinctness) I divide again into two heads; the external, in which I mean to comprehend their conduct in their federal capacity, as it relates to powers and states independent, or that not long since were such; the other internal, namely their conduct to the countries either immediately subject to the company, or to those who, under the apparent government of native sovereigns, are in a state of much lower, and much more miserable, than common subjection.

The attention, Sir, which I wish to preserve to method will not be considered as unnecessary or affected. Nothing else can help me to selection out of the infinite mass of materials

which have passed under my eye; or can keep my mind steady to the great leading points I have in view.

With regard therefore to the abuse of the external federal trust, I engage myself to you to make good these three positions:—First, I say, that from mount Imaus, (or whatever else you call that large range of mountains that walls the northern frontier of India,) where it touches us in the latitude of twenty-nine, to Cape Comorin, in the latitude of eight, there is not a *single* prince, state, or potentate, great or small, in India, with whom they have come into contact, whom they have not sold. I say *sold*, though sometimes they have not been able to deliver according to their bargain.—Secondly, I say, that there is not a *single treaty* they have ever made, which they have not broken.—Thirdly, I say, that there is not a single prince or state, who ever put any trust in the company, who is not utterly ruined; and that none are in any degree secure or flourishing, but in the exact proportion to their settled distrust and irreconcilable enmity to this nation.

These assertions are universal. I say in the full sense *universal*. They regard the external and political trust only; but I shall produce others fully equivalent in the internal. For the present, I shall content myself with explaining my meaning; and if I am called on for proof whilst these bills are depending (which I believe I shall not) I will put my finger on the appendixes to the reports, or on papers of record in the house, or the committees, which I have distinctly present to my memory, and which I think I can lay before you at half an hour's warning.

The first potentate sold by the company for money, was the Great Mogul—the descendant of Tamerlane. This high personage, as high as human veneration can look at, is by every account amiable in his manners, respectable for his piety according to his mode, and accomplished in all the Oriental literature. All this and the title derived under his *charter*, to all that we hold in India, could not save him from the general *sale*. Money is coined in his name; in his name justice is administered; he is prayed for in every temple through the countries we possess—But he was sold.

It is impossible, Mr. Speaker, not to pause here for a moment, to reflect on the incoustancy of human greatness, and the stupendous revolutions that have happened in our age of wonders. Could it be believed when I entered into existence, or when you, a younger man, were born, that on this day, in this house, we should be employed in discussing the conduct of those British subjects who had disposed of the power and person of the grand Mogul? This is no idle speculation. Awful

lessons are taught by it, and by other events, of which it is not yet too late to profit.

This is hardly a digression; but I return to the sale of the Mogul. Two districts, Corah, and Allahabad, out of his immense grants, were reserved as a royal demesne to the donor of a kingdom, and the rightful sovereign of so many nations.—After withholding the tribute of 260,000*l.* a year, which the company was, by the *charter* they had received from this prince, under the most solemn obligation to pay, these districts were sold to his chief minister Sujah ul Dowlah; and, what may appear to some the worst part of the transaction, these two districts were sold for scarcely two years' purchase. The descendant of Tamerlane now stands in need almost of the common necessaries of life; and in this situation we do not even allow him, as bounty, the smallest portion of what we owe him in justice.

The next sale was that of the whole nation of the Rohillas, which the grand salesman, without a pretence of quarrel, and contrary to his own declared sense of duty and rectitude, sold to the same Sujah ul Dowlah. He sold the people to utter *extirpation*, for the sum of four hundred thousand pounds. Faithfully was the bargain performed on our side. Hafiz Rhamet, the most eminent of their chiefs, one of the bravest men of his time, and as famous throughout the East for the elegance of his literature, and the spirit of his poetical compositions (by which he supported the name of Hafiz) as for his courage, was invaded with an army of an hundred thousand men, and an English brigade. This man at the head of inferior forces was slain valiantly fighting for his country. His head was cut off, and delivered for money to a barbarian. His wife and children, persons of that rank, were seen begging a handful of rice through the English camp. The whole nation, with inconsiderable exceptions, was slaughtered or banished. The country was laid waste with fire and sword; and that land, distinguished above most others by the cheerful face of paternal government and protected labor, the chosen seat of cultivation and plenty, is now almost throughout a dreary desert, covered with rushes and briars, and jungles full of wild beasts.

The British officer who commanded in the delivery of the people thus sold, felt some compunction at his employment. He represented these enormous excesses to the president of Bengal, for which he received a severe reprimand from the civil governor; and I much doubt whether the breach caused by the conflict, between the compassion of the military and the firmness of the civil governor, be closed at this hour.

In Bengal, Serajah Dowlah was sold to Mir Jaffier; Mir

Jaffier was sold to Mir Cossim; and Mir Cossim was sold to Mir Jaffier again. The succession of Mir Jaffier was sold to his eldest son;—another son of Mir Jaffier, Mobarech ul Dowlah, was sold to his step-mother—The Maratta empire was sold to Rogaba; and Rogaba was sold and delivered to the Peishwa of the Marattas. Both Rogaba and the Peishwa of the Marattas were offered to sale to the rajah of Berar. Scindia, the chief of Malva, was offered to sale to the same rajah; and the Subah of the Decan was sold to the great trader Mahomet Ali, nabob of Arcot. To the same nabob of Arcot they sold Hyder Ali and the kingdom of Mysore. To Mahomet Ali they twice sold the kingdom of Tanjore. To the same Mahomet Ali they sold at least twelve sovereign princes, called the Polygars. But to keep things even, the territory of Tinnivelly, belonging to their nabob, they would have sold to the Dutch; and to conclude the account of sales, their great customer, the nabob of Arcot himself, and his lawful succession, has been sold to his second son, Amir ul Omrah, whose character, views, and conduct, are in the accounts upon your table. It remains with you whether they shall finally perfect this last bargain.

All these bargains and sales were regularly attended with the waste and havoc of the country, always by the buyer, and sometimes by the object of the sale. This was explained to you by the honorable mover, when he stated the mode of paying debts due from the country powers to the company. An honorable gentleman, who now is not in his place, objected to his jumping near two thousand miles for an example. But the southern example is perfectly applicable to the northern claim, as the northern is to the southern; for, throughout the whole space of these two thousand miles, take your stand where you will, the proceeding is perfectly uniform, and what is done in one part will apply exactly to the other.

My second assertion is, that the company never has made a treaty which they have not broken. This position is so connected with that of the sales of provinces and kingdoms, with the negotiation of universal distraction in every part of India, that a very minute detail may well be spared on this point. It has not yet been contended, by any enemy to the reform, that they have observed any public agreement. When I hear that they have done so in any one instance (which hitherto, I confess, I never heard alleged) I shall speak to the particular treaty. The governor general has even amused himself and the court of directors in a very singular letter to that board, in which he admits he has not been very delicate with regard to public faith; and he goes so far as to state a regular estimate of the sums which the company would have lost, or never acquired,

if the rigid ideas of public faith entertained by his colleagues had been observed. The learned gentleman over against me has indeed saved me much trouble. On a former occasion, he obtained no small credit, for the clear and forcible manner in which he stated what we have not forgot, and I hope he has not forgot, that universal systematic breach of treaties which had made the British faith proverbial in the East.

It only remains, Sir, for me just to recapitulate some heads.—The treaty with the mogul, by which we stipulated to pay him 260,000*l.* annually, was broken. This treaty they have broken, and not paid him a shilling. They broke their treaty with him, in which they stipulated to pay 400,000*l.* a year to the soubah of Bengal. They agreed with the mogul, for services admitted to have been performed, to pay Nudjif Cawn a pension. They broke this article with the rest, and stopped also this small pension. They broke their treaties with the Nizam, and with Hyder Ali. As to the Marattas, they had so many cross treaties with the states general of that nation, and with each of the chiefs, that it was notorious that no one of these agreements could be kept without grossly violating the rest. It was observed, that if the terms of these several treaties had been kept, two British armies would at one and the same time have met in the field to cut each other's throats. The wars which desolate India, originated from a most atrocious violation of public faith on our part. In the midst of profound peace, the company's troops invaded the Maratta territories, and surprised the island and fortress of Salsette. The Marattas nevertheless yielded to a treaty of peace, by which solid advantages were procured to the company. But this treaty, like every other treaty, was soon violated by the company. Again the company invaded the Maratta dominions. The disaster that ensued gave occasion to a new treaty. The whole army of the company was obliged, in effect, to surrender to this injured, betrayed, and insulted people. Justly irritated, however, as they were, the terms which they prescribed were reasonable and moderate; and their treatment of their captive invaders of the most distinguished humanity. But the humanity of the Marattas was of no power whatsoever to prevail on the company to attend to the observance of the terms dictated by their moderation. The war was renewed with greater vigor than ever; and such was their insatiable lust of plunder, that they never would have given ear to any terms of peace, if Hyder Ali had not broke through the Gauts, and rushing like a torrent into the Carnatic, swept away everything in his career. This was in consequence of that confederacy, which by a sort of miracle united the most discordant powers for our destruction, as a nation in which no

other could put any trust, and who were the declared enemies of the human species.

My third assertion, relative to the abuse made of the right of war and peace is, that there are none who have ever confided in us who have not been utterly ruined. The examples I have given of Ragonaut Row, of Guickwar, of the rana of Gohud, are recent. There is proof more than enough in the condition of the mogul; in the slavery and indigence of the nabob of Oude; the exile of the rajah of Benares; the beggary of the nabob of Bengal; the undone and captive condition of the rajah and kingdom of Tanjore; the destruction of the Polygars; and lastly, in the destruction of the nabob of Arcot himself, who, when his dominions were invaded, was found entirely destitute of troops, provisions, stores, and (as he asserts) of money, being a million in debt to the company, and four millions to others: the many millions which he had exorted from so many extirpated princes and their desolated countries having (as he has frequently hinted) been expended for the ground-rent of his mansion-house in an alley in the suburbs of Madras. Compare the condition of all these princes with the power and authority of all the Maratta states; with the independence and dignity of the Soubah of the Decan; and the mighty strength, the resources, and the manly struggle of Hyder Ali; and then the house will discover the effects on every power in India, of an easy confidence, or of a rooted distrust in the faith of the company.

These are some of my reasons, grounded on the abuse of the external political trust of that body, for thinking myself not only justified, but bound, to declare against those chartered rights which produce so many wrongs. I should deem myself the wickedest of men, if any vote of mine could contribute to the continuance of so great an evil.

Now, Sir, according to the plan I proposed, I shall take notice of the company's internal government, as it is exercised first on the dependent provinces, and then as it affects those under the direct and immediate authority of that body. And here, Sir, before I enter into the spirit of their interior government, permit me to observe to you, upon a few of the many lines of difference which are to be found between the vices of the company's government, and those of the conquerors who preceded us in India; that we may be enabled a little the better to see our way in an attempt to the necessary reformation.

The several irruptions of Arabs, Tartars and Persians, into India were, for the greater part, ferocious, bloody, and wasteful in the extreme: our entrance into the dominion of that country was, as generally, with small comparative effusion of blood

being introduced by various frauds and delusions, and by taking advantage of the incurable, blind, and senseless animosity, which the several country powers bear towards each other, rather than by open force. But the difference in favor of the first conquerors is this; the Asiatic conquerors very soon abated of their ferocity, because they made the conquered country their own. They rose or fell with the rise or fall of the territory they lived in. Fathers there deposited the hopes of their posterity; and children there beheld the monuments of their fathers. Here their lot was finally cast; and it is the natural wish of all, that their lot should not be cast in a bad land. Poverty, sterility, and desolation, are not a recreating prospect to the eye of man; and there are very few who can bear to grow old among the curses of a whole people. If their passion or their avarice drove the Tartar lords to acts of rapacity or tyranny, there was time enough, even in the short life of man, to bring round the ill effects of an abuse of power upon the power itself. If hoards were made by violence and tyranny, they were still domestic hoards; and domestic profusion, or the rapine of a more powerful and prodigal hand, restored them to the people. With many disorders, and with few political checks upon power, nature had still fair play; the sources of acquisition were not dried up; and therefore the trade, the manufactures, and the commerce of the country flourished. Even avarice and usury itself operated, both for the preservation and the employment of national wealth. The husbandman and manufacturer paid heavy interest, but then they augmented the fund from whence they were again to borrow. Their resources were dearly bought, but they were sure; and the general stock of the community grew by the general effort.

But under the English government all this order is reversed. The Tartar invasion was mischievous; but it is our protection that destroys India. It was their enmity, but it is our friendship. Our conquest there, after twenty years, is as crude as it was the first day. The natives scarcely know what it is to see the gray head of an Englishman. Young men (boys almost) govern there, without society, and without sympathy with the natives. They have no more social habits with the people, than if they still resided in England; nor, indeed, any species of intercourse but that which is necessary to making a sudden fortune, with a view to a remote settlement. Animated with all the avarice of age, and all the impetuosity of youth, they roll in one after another; wave after wave; and there is nothing before the eyes of the natives but an endless, hopeless prospect of new flights of birds of prey and passage, with appetites continually renewing for a food that is continually wasting.

Every rupee of profit made by an Englishman, is lost for ever to India. With us are no retributory superstitions, by which a foundation of charity compensates, through ages, to the poor, for the rapine and injustice of a day. With us, no pride erects stately monuments which repair the mischiefs which pride had produced, and which adorn a country out of its own spoils. England has erected no churches, no hospitals, no palaces, no schools; England has built no bridges, made no high roads, cut no navigations, dug out no reservoirs. Every other conqueror of every other description has left some monument, either of state or beneficence, behind him. Were we to be driven out of India this day, nothing would remain, to tell that it had been possessed, during the inglorious period of our dominion, by anything better than the ouran-outang or the tiger.

There is nothing in the boys we send to India worse, than in the boys whom we are whipping at school, or that we see trailing a pike, or bending over a desk at home. But as English youth in India drink the intoxicating draught of authority and dominion before their heads are able to bear it, and as they are full grown in fortune long before they are ripe in principle, neither nature nor reason have any opportunity to exert themselves for remedy of the excesses of their premature power. The consequences of their conduct, which in good minds (and many of theirs are probably such) might produce penitence or amendment, are unable to pursue the rapidity of their flight. Their prey is lodged in England; and the cries of India are given to seas and winds, to be blown about, in every breaking up of the monsoon, over a remote and unhearing ocean. In India, all the vices operate by which sudden fortune is acquired; in England are often displayed by the same persons, the virtues which dispense hereditary wealth. Arrived in England, the destroyers of the nobility and gentry of a whole kingdom will find the best company in this nation, at a board of elegance and hospitality. Here the manufacturer and husbandman will bless the just and punctual hand that in India has torn the cloth from the loom, or wrested the scanty portion of rice and salt from the peasant of Bengal, or wrung from him the very opium in which he forgot his oppressions and his oppressor. They marry into your families; they enter into your senate; they ease your estates by loans; they raise their value by demands; they cherish and protect your relations, which lie heavy on your patronage; and there is scarcely a house in the kingdom that does not feel some concern and interest that makes all reform of our eastern government appear officious and disgusting; and on the whole, a most discouraging attempt. In such an attempt you hurt those who are able to return kindness, or to resent injury. If you

succeed, you save those who cannot so much as give you thanks. All these things show the difficulty of the work we have on hand: but they show its necessity too. Our Indian government is in its best state a grievance. It is necessary that the correctives should be uncommonly vigorous; and the work of men, sanguine, warm, and even impassioned in the cause. But it is an arduous thing to plead against abuses of a power which originates from your own country, and affects those whom we are used to consider as strangers.

I shall certainly endeavor to modulate myself to this temper; though I am sensible that a cold style of describing actions which appear to me in a very affecting light, is equally contrary to the justice due to the people, and to all genuine human feelings about them. I ask pardon of truth and nature for this compliance. But I shall be very sparing of epithets either to persons or things. It has been said (and, with regard to one of them, with truth) that Tacitus and Machiavel, by their cold way of relating enormous crimes, have in some sort appeared not to disapprove them; that they seem a sort of professors of the art of tyranny, and that they corrupt the minds of their readers, by not expressing the detestation and horror that naturally belong to horrible and detestable proceedings. But we are in general, Sir, so little acquainted with Indian details; the instruments of oppression under which the people suffer are so hard to be understood; and even the very names of the sufferers are so uncouth and strange to our ears, that it is very difficult for our sympathy to fix upon these objects. I am sure that some of us have come down stairs from the committee-room, with impressions on our minds, which to us were the inevitable results of our discoveries, yet if we should venture to express ourselves, in the proper language of our sentiments, to other gentlemen, not at all prepared to enter into the cause of them, nothing could appear more harsh and dissonant, more violent and unaccountable, than our language and behavior. All these circumstances are not, I confess, very favorable to the idea of our attempting to govern India at all. But there we are; there we are placed by the Sovereign Disposer; and we must do the best we can in our situation. The situation of man is the preceptor of his duty.

Upon the plan which I laid down, and to which I beg leave to return, I was considering the conduct of the company to those nations which are indirectly subject to their authority. The most considerable of the dependent princes is the nabob of Oude. My right honorable friend, to whom we owe the remedial bills on your table, has already pointed out to you, in one of the reports, the condition of that prince, and as it stood in the time alluded to. I shall only add a few circumstances

that may tend to awaken some sense of the manner in which the condition of the people is affected by that of the prince, and involved in it; and to show you, that when we talk of the sufferings of princes, we do not lament the oppression of individuals; and that in these cases the high and the low suffer together.

In the year 1779, the nabob of Oude represented, through the British resident at his court, that the number of company's troops stationed in his dominions was a main cause of his distress; and that all those which he was not bound by treaty to maintain should be withdrawn, as they had greatly diminished his revenue, and impoverished his country.

It was now to be seen what steps the governor-general and council took for the relief of this distressed country, long laboring under the vexations of men, and now stricken by the hand of God. The case of a general famine is known to relax the severity even of the most rigorous government.—Mr. Hastings does not deny, or show the least doubt of the fact. The representation is humble, and almost abject. On this representation from a great prince of the distress of his subjects, Mr. Hastings falls into a violent passion; such (as it seems) would be unjustifiable in any one who speaks of any part of *his* conduct. He declares, "that the *demands*, the *tone*, in which they were asserted, and the *season* in which they were made, are all equally alarming, and appear to him to require an adequate degree of firmness in this board, in *opposition* to them." He proceeds to deal out very unreserved language, on the person and character of the nabob and his ministers. He declares, that in a division between him and the nabob, "*the strongest must decide.*" With regard to the urgent and instant necessity, from the failure of the crops, he says, "that *perhaps* expedients *may be found* for affording a *gradual* relief from the burthen of which he so heavily complains, and it shall be my endeavor to seek them out:" and lest he should be suspected of too much haste to alleviate sufferings, and to remove violence, he says, "that these must be *gradually* applied, and their complete *effect* may be *distant;* and this I conceive *is all* he can claim of right."

Here, Sir, is much heat and passion; but no more consideration of the distress of the country, from a failure of the means of subsistence, and (if possible) the worse evil of an useless and licentious soldiery, than if they were the most contemptible of all trifles. A letter is written in consequence, in such a style of lofty despotism, as I believe has hitherto been unexampled and unheard of in the records of the East. The troops were continued. The *gradual* relief, whose effect was to be so

distant, has *never* been substantially and beneficially applied—and the country is ruined.

The invariable course of the company's policy is this: either they set up some prince too odious to maintain himself without the necessity of their assistance; or they soon render him odious, by making him the intrument of their government. In that case troops are bountifully sent to him to maintain his authority. That he should have no want of assistance, a civil gentleman, called a resident, is kept at his court, who, under pretence of providing duly for the pay of these troops, gets assignments on the revenue into his hands. Under his provident management, debts soon accumulate; new assignments are made for these debts; until, step by step, the whole revenue, and with it the whole power of the country, is delivered into his hands. The military do not behold without a virtuous emulation the moderate gains of the civil department. They feel that, in a country driven to habitual rebellion by the civil government, the military is necessary; and they will not permit their services to go unrewarded. Tracts of country are delivered over to their discretion. Then it is found proper to convert their commanding officers into farmers of revenue. Thus between the well-paid civil, and well-rewarded military establishment, the situation of the natives may be easily conjectured. The authority of the regular and lawful government is everywhere and in every point extinguished. Disorders and violences arise; they are repressed by other disorders and other violences. Wherever the collectors of the revenue, and the farming colonels and majors move, ruin is about them, rebellion before and behind them. The people in crowds fly out of the country; and the frontier is guarded by lines of troops, not to exclude an enemy, but to prevent the escape of the inhabitants.

By these means, in the course of not more than four or five years, this once opulent and flourishing country, which, by the accounts given in the Bengal consultations, yielded more than three-score of Sicca rupees, that is, above three millions sterling annually, is reduced, as far as I can discover, in a matter purposely involved in the utmost perplexity, to less than one million three hundred thousand pounds, and that exacted by every mode of rigor that can be devised. To complete the business, most of the wretched remnants of this revenue are mortgaged, and delivered into the hands of the usurers at Benares (for there alone are to be found some lingering remains of the ancient wealth of these regions) at an interest of near *thirty per cent. per annum.*

The revenues in this manner failing, they seized upon the

estates of every person of eminence in the country, and under the name of *resumption*, confiscated their property. I wish, Sir, to be understood universally and literally, when I assert, that there is not left one man of property and substance for his rank, in the whole of these provinces, in provinces which are nearly the extent of England and Wales taken together. Not one landholder, not one banker, not one merchant, not one even of those who usually perish last, the *ultimum moriens* in a ruined state, not one farmer of revenue.

One country for a while remained, which stood as an island in the midst of the grand waste of the company's dominion. My right honorable friend, in his admirable speech on moving the bill, just touched the situation, the offences, and the punishment of a native prince, called Fizulla Khân. This man, by policy and force, had protected himself from the general extirpation of the Rohilla chiefs. He was secured (if that were any security) by a treaty. It was stated to you, as it was stated by the enemies of that unfortunate man—"that the whole of his country *is* what the whole of the Rohillas *was*, cultivated like a garden, without one neglected spot in it."—Another accuser says, "Fyzoolah Khân, though a bad soldier, [that is the true source of his misfortune] has approved himself a good aumil; having, it is supposed, in the course of a few years, at least *doubled* the population and revenue of his country."—In another part of the correspondence he is charged with making his country an asylum for the oppressed peasants, who fly from the territories of Oude. The improvement of his revenue, arising from this single crime, (which Mr. Hastings considers as tantamount to treason,) is stated at a hundred and fifty thousand pounds a year.

Dr. Swift somewhere says, that he who could make two blades of grass grow where but one grew before, was a greater benefactor to the human race than all the politicians that ever existed. This prince, who would have been deified by antiquity, who would have been ranked with Osiris, and Bacchus, and Ceres, and the divinities most propitious to men, was, for those very merits, by name attacked by the company's government, as a cheat, a robber, a traitor. In the same breath in which he was accused as a rebel, he was ordered at once to furnish 5,000 horse. On delay, or (according to the technical phrase, when any remonstrance is made to them) "*on evasion*," he was declared a violator of treaties, and everything he had was to be taken from him.—Not one word, however, of horse in this treaty.

The territory of this Fizulla Khân, Mr. Speaker, is less than the county of Norfolk. It is an inland country, full seven hun

dred miles from any sea-port, and not distinguished for any one considerable branch of manufacture whatsoever. From this territory several very considerable sums had at several times been paid to the British resident. The demand of cavalry, without a shadow or decent pretext of right, amounted to three hundred thousand a year more, at the lowest computation; and it is stated, by the last person sent to negotiate, as a demand of little use, if it could be complied with; but that the compliance was impossible, as it amounted to more than his territories could supply, if there had been no other demand upon him—three hundred thousand pounds a year from an inland country not so large as Norfolk!

The thing most extraordinary was to hear the culprit defend himself from the imputation of his virtues, as if they had been the blackest offences. He extenuated the superior cultivation of his country. He denied its population. He endeavored to prove that he had often sent back the poor peasant that sought shelter with him.—I can make no observation on this.

After a variety of extortions and vexations, too fatiguing to you, too disgusting to me, to go through with, they found "that they ought to be in a better state to warrant forcible means;" they therefore contented themselves with a gross sum of 150,000 pounds for their present demand. They offered him indeed an indemnity from their exactions in future for three hundred thousand pounds more. But he refused to buy their securities, pleading (probably with truth) his poverty: but if the plea were not founded, in my opinion very wisely; not choosing to deal any more in that dangerous commodity of the company's faith; and thinking it better to oppose distress and unarmed obstinacy to uncoloured exaction, than to subject himself to be considered as a cheat, if he should make a treaty in the least beneficial to himself.

Thus they executed an exemplary punishment on Fizulla Khân for the culture of his country. But, conscious that the prevention of evils is the great object of all good regulation, they deprived him of the means of increasing that criminal cultivation in future, by exhausting his coffers; and, that the population of his country should no more be a standing reproach and libel on the company's government, they bound him, by a positive engagement, not to afford any shelter whatsoever to the farmers and laborers who should seek refuge in his territories, from the exactions of the British residents in Oude. When they had done all this effectually, they gave him a full and complete acquittance from all charges of rebellion, or of any intention to rebel, or of his having originally had any interest in, or any means of rebellion.

These intended rebellions are one of the company's standing resources. When money has been thought to be heaped up anywhere, its owners are universally accused of rebellion, until they are acquitted of their money and their treasons at once. The money once taken, all accusation, trial, and punishment ends. It is so settled a resource, that I rather wonder how it comes to be omitted in the directors' account; but I take it for granted this omission will be supplied in their next edition.

The company stretched this resource to the full extent, when they accused two old women, in the remotest corner of India (who could have no possible view or motive to raise disturbances) of being engaged in rebellion, with an intent to drive out the English nation, in whose protection, purchased by money and secured by treaty, rested the sole hope of their existence. But the company wanted money, and the old women *must* be guilty of a plot. They were accused of rebellion, and they were convicted of wealth. Twice had great sums been extorted from them, and as often had the British faith guarantied the remainder. A body of British troops, with one of the military farmers general at their head, was sent to seize upon the castle in which these helpless women resided. Their chief eunuchs, who were their agents, their guardians, protectors, persons of high rank according to the Eastern manners, and of great trust, were thrown into dungeons, to make them discover their hidden treasures; and there they lie at present. The lands assigned for the maintenance of the women were seized and confiscated. Their jewels and effects were taken, and set up to a pretended auction in an obscure place, and bought at such a price as the gentlemen thought proper to give. No account has ever been transmitted of the articles or produce of this sale. What money was obtained is unknown, or what terms were stipulated for the maintenance of these despoiled and forlorn creatures; for by some particulars it appears as if an engagement of the kind was made.

I wish you, Sir, to advert particularly, in this transaction, to the quality and the numbers of the persons spoiled, and the instrument by whom that spoil was made. These ancient matrons, called the Begums, or Princesses, were of the first birth and quality in India, the one mother, the other wife, of the late nabob of Oude, Sujah Dowlah, a prince possessed of extensive and flourishing dominions, and the second man in the Mogul empire. This prince (suspicious, and not unjustly suspicious, of his son and successor) at his death committed his treasures and his family to the British faith. That family and household consisted of *two thousand women*; to which

were added two other seraglios of near kindred, and said to be extremely numerous, and (as I am well informed) of about four-score of the nabob's children, with all the eunuchs, the ancient servants, and a multitude of the dependants of his splendid court. These were all to be provided, for present maintenance and future establishment, from the lands assigned as dower, and from the treasures which he left to these matrons, in trust for the whole family.

So far as to the objects of the spoil. The *instrument* chosen by Mr. Hastings to despoil the relict of Sujah Dowlah was *her own son*, the reigning nabob of Oude. It was the pious hand of a son that was selected to tear from his mother and grandmother the provision of their age, the maintenance of his brethren, and of all the ancient household of his father. [Here a laugh from some young members]—The laugh is *seasonable*, and the occasion decent and proper.

The women being thus disposed of, that is, completely despoiled, and pathetically lamented, Mr. Hastings at length recollected the great object of his enterprise, which, during his zeal lest the officers and soldiers should lose any part of their reward, he seems to have forgot; that is to say, "to draw from the rajah's guilt the means of relief to the company's distresses." This was to be the strong-hold of his defence. This compassion to the company, he knew by experience would sanctify a great deal of rigor towards the natives. But the military had distresses of their own, which they considered first. Neither Mr. Hastings's authority, nor his supplications, could prevail on them to assign a shilling to the claim he made on the part of the company. They divided the booty amongst themselves. Driven from his claim, he was reduced to petition for the spoil as a loan. But the soldiers were too wise to venture as a loan, what the borrower claimed as a right. In defiance of all authority, they shared among themselves about two hundred thousand pounds sterling, besides what had been taken from the women.

In all this there is nothing wonderful. We may rest assured, that when the maxims of any government establish among its resources extraordinary means, and those exerted with a strong hand, that strong hand will provide those extraordinary means for *itself*. Whether the soldiers had reason or not (perhaps much might be said for them,) certain it is, the military discipline of India was ruined from that moment; and the same rage for plunder, the same contempt of subordination, which blasted all the hopes of extraordinary means from your strong hand at Benares, have very lately lost you an army in

Mysore. This is visible enough from the accounts in the last Gazette.

It is only to complete the view I proposed of the conduct of the company, with regard to the dependent provinces, that I shall say *any* thing at all of the Carnatic, which is the scene, if possible, of greater disorder than the northern provinces. Perhaps it were better to say of this centre and metropolis of abuse, whence all the rest in India and in England diverge; from whence they are fed and methodized, what was said of Carthage—*de Carthagine satius est silere quam parum dicere.* This country, in all its denominations, is about 46,000 square miles. It may be affirmed universally, that not one person of substance or property, landed, commercial or moneyed, excepting two or three bankers, who are necessary deposits and distributors of the general spoil, is left in all that region. In that country the moisture, the bounty of Heaven, is given but at a certain season. Before the era of our influence, the industry of man carefully husbanded that gift of God. The Gentoos preserved, with a provident and religious care, the precious deposit of the periodical rain in reservoirs, many of them works of royal grandeur; and from these, as occasion demanded, they fructified the whole country. To maintain these reservoirs, and to keep up an annual advance to the cultivators, for seed and cattle, formed a principal object of the piety and policy of the priests and rulers of the Gentoo religion.

This object required a command of money; and there was no pollam, or castle, which in the happy days of the Carnatic was without some hoard of treasure, by which the governors were enabled to combat with the irregularity of the seasons, and to resist or to buy off the invasion of an enemy. In all the cities were multitudes of merchants and bankers, for all occasions of moneyed assistance; and on the other hand, the native princes were in condition to obtain credit from them. The manufacturer was paid by the return of commodities, or by imported money, and not, as at present, in the taxes that had been originally exacted from his industry. In aid of casual distress, the country was full of choultries, which were inns and hospitals, where the traveller and the poor were relieved. All ranks of people had their place in the public concern, and their share in the common stock and common prosperity; but *the chartered rights of men*, and the right which it was thought proper to set up in the nabob of Arcot, introduced a new system. It was their policy to consider hoards of money as crimes; to regard moderate rents as frauds on the sovereign; and to view, in the lesser princes, any claim of exemption from more than settled tribute, as an act of rebellion. Accordingly

all the castles were, one after the other, plundered and destroyed. The native princes were expelled; the hospitals fell to ruin; the reservoirs of water went to decay; the merchants, bankers, and manufacturers disappeared; and sterility, indigence, and depopulation, overspread the face of these once flourishing provinces.

The company was very early sensible of these mischiefs, and of their true cause. They gave precise orders "that the native princes, called polygars, should *not be extirpated.*"—"The rebellion [so they chose to call it] of the polygars, may (they fear) *with too much justice*, be attributed to the maladministration of the nabob's collectors:"—They observe with concern, that their "troops have been put to *disagreeable* services." They might have used a stronger expression without impropriety. But they make amends in another place. Speaking of the polygars, the directors say, that "it was repugnant to humanity to *force* them to such dreadful extremities *as they underwent:*" That some examples of severity *might* be necessary, "when they fell into the nabob's hands," *and not by the destruction of the country:* "That *they fear* his government is *none of the mildest;* and that there is *great oppression* in collecting his revenues." They state, that the wars in which he has involved the Carnatic, had been a cause of its distresses: "that these distresses have been certainly great; but those by *the nabob's oppressions* they believe *to be greater than all.*" Pray, Sir, attend to the reason for their opinion that the government of this their instrument is more calamitous to the country than the ravages of war.—Because, say they, his oppressions are "*without intermission.*—The other are temporary; by all which *oppressions* we believe the nabob has great wealth in store." From this store neither he nor they could derive any advantage whatsoever upon the invasion of Hyder Ali in the hour of their greatest calamity and dismay.

It is now proper to compare these declarations with the company's conduct. The principal reason which they assigned against the *extirpation* of the polygars was, that the *weavers* were protected in their fortresses. They might have added, that the company itself, which stung them to death, had been warmed in the bosom of these unfortunate princes: for, on the taking of Madras by the French, it was in their hospitable pollams, that most of the inhabitants found refuge and protection. But, notwithstanding all these orders, reasons, and declarations, they at length gave an indirect sanction, and permitted the use of a very direct and irresistible force, to measures which they had, over and over again, declared to be false policy, cruel, inhuman, and oppressive. Having, however, forgot all atten-

tion to the princes and the people, they remembered that they had some sort of interest in the trade of the country; and it is matter of curiosity to observe the protection which they afforded this their natural object.

Full of anxious cares on this head, they direct, "that in reducing the polygars they (their servants) were to be *cautious*, not to deprive the *weavers and manufacturers* of the protection they often met with in the strong-holds of the polygar countries;"—and they write to their instrument, the nabob of Arcot, concerning these poor people, in a most pathetic strain. "We *entreat* your excellency (say they) in particular, to make the manufacturers the object of your *tenderest care;* particularly when you *root out* the polygars, you do not deprive the *weavers of the protection they enjoyed under them.*" When they root out the protectors in favor of the oppressor, they show themselves religiously cautious of the rights of the protected. When they extirpate the shepherd and the shepherd's dog, they piously recommend the helpless flock to the mercy, and even to the *tenderest care,* of the wolf. This is the uniform strain of their policy, strictly forbidding, and at the same time strenuously encouraging and enforcing, every measure that can ruin and desolate the country committed to their charge. After giving the company's idea of the government of this their instrument, it may appear singular, but it is perfectly consistent with their system, that, besides wasting for him, at two different times, the most exquisite spot upon earth, Tanjore, and all the adjacent countries, they have even voluntarily put their own territory, that is, a large and fine country adjacent to Madras, called their jaghire, wholly out of their protection; and have continued to farm their subjects, and their duty towards these subjects, to that very nabob, whom they themselves constantly represent as an habitual oppressor, and a relentless tyrant. This they have done without any pretence of ignorance of the objects of oppression for which this prince has thought fit to become their renter; for he has again and again told them, that it is for the sole purpose of exercising authority he holds the jaghire lands; and he affirms (and I believe with truth) that he pays more for that territory than the revenues yield. This deficiency he must make up from his other territories; and thus, in order to furnish the means of oppressing one part of the Carnatic, he is led to oppress all the rest.

The house perceives that the livery of the company's government is uniform. I have described the condition of the countries indirectly, but most substantially, under the company's authority. And now I ask, whether, with this map of misgovernment before me, I can suppose myself bound by any

vote to continue, upon any principles of pretended public faith, the management of these countries in those hands? If I kept such a faith, (which in reality is no better than a *fides latronum*) with what is called the company, I must break the faith, the covenant, the solemn, original, indispensable oath, in which I am bound, by the eternal frame and constitution of things, to the whole human race.

As I have dwelt so long on those who are indirectly under the company's administration, I will endeavor to be a little shorter upon the countries immediately under this charter government.—These are the Bengal provinces. The condition of these provinces is pretty fully detailed in the sixth and ninth reports, and in their appendixes. I will select only such principles and instances as are broad and general. To your own thoughts I shall leave it, to furnish the detail of oppressions involved in them. I shall state to you, as shortly as I am able the conduct of the company;—1st, towards the landed interests;—next, the commercial interests;—3dly, the native government;—and lastly, to their own government.

Bengal, and the provinces that are united to it, are larger than the kingdom of France; and once contained, as France does contain, a great and independent landed interest, composed of princes, of great lords, of a numerous nobility and gentry, of freeholders, of lower tenants, of religious communities, and public foundations. So early as 1769, the company's servants perceived the decay into which these provinces had fallen under English administration, and they made a strong representation upon this decay, and what they apprehended to be the causes of it. Soon after this representation, Mr. Hastings became president of Bengal. Instead of administering a remedy to this melancholy disorder, upon the heels of a dreadful famine, in the year 1772, the succor which the new president and the council lent to this afflicted nation was—shall I be believed in relating it?—the landed interest of a whole kingdom, of a kingdom to be compared to France, was set up to public auction! They set up (Mr. Hastings set up) the whole nobility, gentry, and freeholders, to the highest bidder. No preference was given to the ancient proprietors. They must bid against every usurer, every temporary adventurer, every jobber and schemer, every servant of every European, or they were obliged to content themselves, in lieu of their extensive domains, with their house, and such a pension as the state auctioneers thought fit to assign. In this general calamity several of the first nobility thought (and in all appearance justly) that they had better submit to the necessity of this pension than continue, under the name of zemindars, the objects

and instruments of a system, by which they ruined their tenants, and were ruined themselves. Another reform has since come upon the back of the first; and a pension having been assigned to these unhappy persons, in lieu of their hereditary lands, a new scheme of economy has taken place, and deprived them of that pension.

The menial servants of Englishmen, persons (to use the emphatical phrase of a ruined and patient eastern chief) "*whose fathers they would not have set with the dogs of their flock*," entered into their patrimonial lands. Mr. Hastings's banian was, after this auction, found possessed of territories yielding a rent of one hundred and forty thousand pounds a year.

Such an universal proscription, upon any pretence, has few examples. Such a proscription, without even a pretence of delinquency, has none. It stands by itself. It stands as a monument to astonish the imagination, to confound the reason of mankind. I confess to you, when I first came to know this business in its true nature and extent, my surprise did a little suspend my indignation. I was in a manner stupefied by the desperate boldness of a few obscure young men, who, having obtained, by ways which they could not comprehend, a power of which they saw neither the purposes nor the limits, tossed about, subverted, and tore to pieces, as if it were in the gambols of a boyish unluckiness and malice, the most established rights, and the most ancient and most revered institutions, of ages and nations. Sir, I will not now trouble you with any detail with regard to what they have since done with these same lands and land-holders; only to inform you, that nothing has been suffered to settle for two seasons together upon any basis; and that the levity and inconstancy of these mock legislators were not the least afflicting parts of the oppressions suffered under their usurpation; nor will anything give stability to the property of the natives, but an administration in England at once protecting and stable. The country sustains, almost every year, the miseries of a revolution. At present, all is uncertainty, misery, and confusion. There is to be found through these vast regions no longer one landed man, who is a resource for voluntary aid, or an object for particular rapine. Some of them were, not long since, great princes; they possessed treasures, they levied armies. There was a zemindar in Bengal (I forget his name) that, on the threat of an invasion, supplied the soubah of these provinces with the loan of a million sterling. The family at this day wants credit for a breakfast at the bazar.

I am now come to my last condition, without which, for one, I will never readily lend my hand to the destruction of any established government; which is, That in its present state,

the government of the East India company is absolutely incorrigible.

Of this great truth I think there can be little doubt, after all that has appeared in this house. It is so very clear, that I must consider the leaving any power in their hands, and the determined resolution to continue and countenance every mode and every degree of peculation, oppression, and tyranny, to be one and the same thing. I look upon that body as incorrigible, from the fullest consideration both of their uniform conduct, and their present real and virtual constitution.

If they had not constantly been apprized of all the enormities committed in India under their authority; if this state of things had been as much a discovery to them as it was to many of us; we might flatter ourselves that the detection of the abuses would lead to their reformation. I will go further: If the court of directors had not uniformly condemned every act which this house or any of its committees had condemned; if the language in which they expressed their disapprobation against enormities and their authors had not been much more vehement and indignant than any ever used in this house, I should entertain some hopes. If they had not, on the other hand, as uniformly commended all their servants who had done their duty and obeyed their orders, as they had heavily censured those who rebelled; I might say, These people have been in an error, and when they are sensible of it they will mend. But when I reflect on the uniformity of their support to the objects of their uniform censure; and the state of insignificance and disgrace to which all of those have been reduced whom they approved; and that even utter ruin and premature death have been among the fruits of their favor; I must be convinced, that in this case, as in all others, hypocrisy is the only vice that never can be cured.

Attend, I pray you, to the situation and prosperity of Benfield, Hastings, and others of that sort. The last of these has been treated by the company with an asperity of reprehension that has no parallel. They lament, "that the power of disposing of their property for perpetuity, should fall into such hands." Yet for fourteen years, with little interruption, he has governed all their affairs, of every description, with an absolute sway. He has had himself the means of heaping up immense wealth; and, during that whole period, the fortunes of hundreds have depended on his smiles and frowns. He himself tells you he is encumbered with two hundred and fifty young gentlemen, some of them of the best families in England, all of whom aim at returning with vast fortunes to Europe in the prime o life. He has then two hundred and fifty of your children as his hostages for your good behavior; and loaded for years, as he has been,

with the execrations of the natives, with the censures of the court of directors, and struck and blasted with the resolutions of this house, he still maintains the most despotic power ever known in India. He domineers with an overbearing sway in the assemblies of his pretended masters; and it is thought in a degree rash to venture to name his offences in this house, even as grounds of a legislative remedy.

On the other hand, consider the fate of those who have met with the applauses of the directors. Colonel Monson, one of the best of men, had his days shortened by the applauses, destitute of the support, of the company. General Clavering, whose panegyric was made in every dispatch from England, whose hearse was bedewed with the tears, and hung round with the eulogies of the court of directors, burst an honest and indignant heart at the treachery of those who ruined him by their praises. Uncommon patience and temper supported Mr. Francis a while longer under the baneful influence of the commendation of the court of directors. His health however gave way at length; and, in utter despair, he returned to Europe. At his return the doors of the India House were shut to this man, who had been the object of their constant admiration. He has indeed escaped with life, but he has forfeited all expectation of credit, consequence, party, and following. He may well say, *Me nemo ministro fur erit, atque ideo nulli comes exeo.* This man, whose deep reach of thought, whose large legislative conceptions, and whose grand plans of policy make the most shining part of our reports, from whence we have all learned our lessons, if we have learned any good ones; this man, from whose materials those gentlemen who have least acknowledged it have yet spoken as from a brief; this man, driven from his employment, discountenanced by the directors, has had no other reward, and no other distinction, but that inward "sunshine of the soul," which a good conscience can always bestow upon itself. He has not yet had so much as a good word, but from a person too insignificant to make any other return, for the means with which he has been furnished for performing his share of a duty which is equally urgent on us all.

Add to this, that from the highest in place to the lowest, every British subject, who, in obedience to the company's orders, has been active in the discovery of peculations, has been ruined. They have been driven from India. When they made their appeal at home, they were not heard; when they attempted to return, they were stopped. No artifice of fraud, no violence of power, has been omitted to destroy them in character as well as in fortune.

Worse, far worse, has been the fate of the poor creatures.

the natives of India, whom the hypocrisy of the company has betrayed into complaint of oppression, and discovery of peculation. The first women in Bengal, the ranny of Rajeshahi, the ranny of Burdwan, the ranny of Amboa, by their weak and thoughtless trust in the company's honor and protection, are utterly ruined: the first of these women, a person of princely rank, and once of correspondent fortune, who paid above two hundred thousand a year quit-rent to the state, is, according to very credible information, so completely beggared as to stand in need of the relief of alms. Mahomed Reza Khân, the second Mussulman in Bengal, for having been distinguished by the ill-omened honor of the countenance and protection of the court of directors, was, without the pretence of any inquiry whatsoever into his conduct, stripped of all his employments, and reduced to the lowest condition. His ancient rival for power, the rajah Nundcomar, was, by an insult on everything which India holds respectable and sacred, hanged in the face of all his nation, by the judges you sent to protect that people; hanged for a pretended crime upon an *ex post facto* British act of parliament, in the midst of his evidence against Mr. Hastings. The accuser they saw hanged. The culprit, without acquittal or inquiry, triumphs on the ground of that murder: a murder not of Nundcomar only, but of all living testimony, and even of evidence yet unborn. From that time not a complaint has been heard from the natives against their governors. All the grievances of India have found a complete remedy.

Men will not look to acts of parliament, to regulations, to declarations, to votes, and resolutions. No, they are not such fools. They will ask, what is the road to power, credit, wealth, and honors? They will ask, what conduct ends in neglect, disgrace, poverty, exile, prison and gibbet? These will teach them the course which they are to follow. It is your distribution of these that will give the character and tone of your government. All the rest is miserable grimace.

When I accuse the court of directors of this habitual treachery, in the use of reward and punishment, I do not mean to include all the individuals in that court. There have been, Sir, very frequently, men of the greatest integrity and virtue amongst them; and the contrariety in the declarations and conduct of that court has arisen, I take it, from this:—That the honest directors have, by the force of matter of fact on the records, carried the reprobation of the evil measures of the servants in India. This could not be prevented, whilst these records stared them in the face; nor were the delinquents, either here or there, very solicitous about their reputation, as

long as they were able to secure their power. The agreement of their partisans to censure them, blunted for a while the edge of a severe proceeding. It obtained for them a character of impartiality, which enabled them to recommend, with some sort of grace, what will always carry a plausible appearance, those treacherous expedients, called moderate measures. Whilst these were under discussion, new matter of complaint came over, which seemed to antiquate the first. The same circle was here trod round once more; and thus through years they proceeded in a compromise of censure for punishment; until, by shame and despair, one after another, almost every man, who preferred his duty to the company to the interest of their servants, has been driven from that court.

This, Sir, has been their conduct; and it has been the result of the alteration which was insensibly made in their constitution. The change was made insensibly; but it is now strong and adult, and as public and declared, as it is fixed beyond all power of reformation. So that there is none who hears me, that is not as certain as I am, that the company, in the sense in which it was formerly understood, has no existence. The question is not, what injury you may do to the proprietors of India stock; for there are no such men to be injured. If the active ruling part of the company, who form the general court, who fill the offices, and direct the measures (the rest tell for nothing) were persons who held their stock as a means of their subsistence, who in the part they took were only concerned in the government of India, for the rise or fall of their dividend, it would be indeed a defective plan of policy. The interest of the people who are governed by them would not be their primary object; perhaps a very small part of their consideration at all. But then they might well be depended on, and perhaps more than persons in other respects preferable, for preventing the peculation of their servants to their own prejudice. Such a body would not easily have left their trade as a spoil to the avarice of those who received their wages. But now things are totally reversed. The stock is of no value, whether it be the qualification of a director or proprietor; and it is impossible that it should. A director's qualification may be worth about two thousand five hundred pounds—and the interest, at eight *per cent.* is about one hundred and sixty pounds a year. Of what value is that, whether it rise to ten, or fall to six, or to nothing, to him whose son, before he is in Bengal two months, and before he descends the steps of the council chamber, sells the grant of a single contract for forty thousand pounds? Accordingly the stock is bought up in qualifications. The vote is not to protect the stock, but the stock is bought to

acquire the vote; and the end of the vote is to cover and support, against justice, some man of power who has made an obnoxious fortune in India; or to maintain in power those who are actually employing it in the acquisition of such a fortune; and to avail themselves in return of his patronage, that he may shower the spoils of the east, "barbaric pearl and gold," on them, their families, and dependants. So that all the relations of the company are not only changed, but inverted. The servants in India are not appointed by the directors, but the directors are chosen by them. The trade is carried on with their capitals. To them the revenues of the country are mortgaged. The seat of the supreme power is in Calcutta. The house in Leadenhall Street is nothing more than a 'change for their agents, factors, and deputies to meet in, to take care of their affairs, and support their interests; and this so avowedly, that we see the known agents of the delinquent servants marshalling and disciplining their forces, and the prime spokesmen in all their assemblies.

I therefore conclude, what you all conclude, that this body, being totally perverted from the purposes of its institution, is utterly incorrigible; and because they are incorrigible, both in conduct and constitution, power ought to be taken out of their hands; just on the same principles on which have been made all the just changes and revolutions of government that have taken place since the beginning of the world.

I will now say a few words to the general principle of the plan which is set up against that of my right honorable friend. It is to re-commit the government of India to the court of directors. Those who would commit the reformation of India to the destroyers of it, are the enemies to that reformation. They would make a distinction between directors and proprietors, which, in the present state of things, does not, cannot exist. But a right honorable gentleman says, he would keep the present government of India in the court of directors; and would, to curb them, provide salutary regulations;—wonderful! That is, he would appoint the old offenders to correct the old offences; and he would render the vicious and the foolish wise and virtuous, by salutary regulations. He would appoint the wolf as guardian of the sheep; but he has invented a curious muzzle, by which this protecting wolf shall not be able to open his jaws above an inch or two at the utmost. Thus his work is finished. But I tell the right honorable gentleman, that controlled depravity is not innocence; and that it is not the labor of delinquency in chains, that will correct abuses. Will these gentlemen of the direction animadvert on the partners of their own guilt? Never did a serious plan of amending of any old

tyrannical establishment propose the authors and abettors of the abuses as the reformers of them. If the undone people of India see their old oppressors in confirmed power, even by the reformation, they will expect nothing but what they will certainly feel, a continuance, or rather an aggravation, of all their former sufferings. They look to the seat of power, and to the persons who fill it; and they despise those gentlemen's regulations as much as the gentlemen do who talk of them.

But there is a cure for everything. Take away, say they, the court of proprietors, and the court of directors will do their duty. Yes; as they have done it hitherto. That the evils in India have solely arisen from the court of proprietors, is grossly false. In many of them, the directors were heartily concurring; in most of them, they were encouraging, and sometimes commanding; in all, they were conniving.

But who are to choose this well-regulated and reforming court of directors?—Why, the very proprietors who are excluded from all management, for the abuse of their power. They will choose, undoubtedly, out of themselves, men like themselves; and those who are most forward in resisting your authority, those who are most engaged in faction or interest with the delinquents abroad, will be the objects of their selection. But gentlemen say, that when this choice is made, the proprietors are not to interfere in the measures of the directors, whilst those directors are busy in the control of their common patrons and masters in India. No, indeed, I believe they will not desire to interfere. They will choose those whom they know may be trusted, safely trusted, to act in strict conformity to their common principles, manners, measures, interests, and connexions. They will want neither monitor nor control. It is not easy to choose men to act in conformity to a public interest against their private: but a sure dependence may be had on those who are chosen to forward their private interest, at the expense of the public. But if the directors should slip, and deviate into rectitude, the punishment is in the hands of the general court, and it will surely be remembered to them at their next election.

If the government of India wants no reformation; but gentlemen are amusing themselves with a theory, conceiving a more democratic or aristocratic mode of government for these dependencies, or if they are in a dispute only about patronage; the dispute is with me of so little concern, that I should not take the pains to utter an affirmative or negative to any proposition in it. If it be only for a theoretical amusement that they are to propose a bill; the thing is at best frivolous and unnecessary. But if the company's government is not only full of

abuse, but is one of the most corrupt and destructive tyrannies, that probably ever existed in the world, (as I am sure it is,) what a cruel mockery would it be in me, and in those who think like me, to propose this kind of remedy for this kind of evil!

I now come to the third objection, That this bill will increase the influence of the crown. An honorable gentleman has demanded of me, whether I was in earnest when I proposed to this house a plan for the reduction of that influence. Indeed, Sir, I was much, very much, in earnest. My heart was deeply concerned in it; and I hope the public has not lost the effect of it. How far my judgment was right, for what concerned personal favor and consequence to myself, I shall not presume to determine; nor is its effect upon *me* of any moment. But as to this bill, whether it increases the influence of the crown, or not, is a question I should be ashamed to ask. If I am not able to correct a system of oppression and tyranny, that goes to the utter ruin of thirty millions of my fellow-creatures and fellow-subjects, but by some increase to the influence of the crown, I am ready here to declare, that I, who have been active to reduce it, shall be at least as active and strenuous to restore it again. I am no lover of names; I contend for the substance of good and protecting government, let it come from what quarter it will.

But I am not obliged to have recourse to this expedient. Much, very much the contrary. I am sure that the influence of the crown will by no means aid a reformation of this kind; which can neither be originated nor supported, but by the uncorrupt public virtue of the representatives of the people of England. Let it once get into the ordinary course of administration, and to me all hopes of reformation are gone. I am far from knowing or believing, that this bill will increase the influence of the crown. We all know, that the crown has ever had some influence in the court of directors; and that it has been extremely increased by the acts of 1773 and 1780. The gentlemen who, as a part of their reformation, propose "a more active control on the part of the crown," which is to put the directors under a secretary of state, specially named for that purpose, must know, that their project will increase it further. But that old influence has had, and the new will have, incurable inconveniences which cannot happen under the parliamentary establishment proposed in this bill. An honorable gentleman, not now in his place, but who is well acquainted with the India company, and by no means a friend to this bill, has told you, that a ministerial influence has always been predominant in that body; and that to make the directors pliant to their pur-

poses, ministers generally caused persons meanly qualified to be chosen directors. According to his idea, to secure subserviency, they submitted the company's affairs to the direction of incapacity. This was to ruin the company, in order to govern it. This was certainly influence in the very worst form in which it could appear. At best it was clandestine and irresponsible. Whether this was done so much upon system as that gentleman supposes, I greatly doubt. But such in effect the operation of government on that court unquestionably was; and such, under a similar constitution, it will be for ever. Ministers must be wholly removed from the management of the affairs of India, or they will have an influence in its patronage. The thing is inevitable. Their scheme of a new secretary of state, "with a more vigorous control," is not much better than a repetition of the measure which we know by experience will not do. Since the year 1773 and the year 1780, the company has been under the control of the secretary of state's office, and we had then three secretaries of state. If more than this is done, then they annihilate the direction which they pretend to support; and they augment the influence of the crown, of whose growth they affect so great a horror. But in truth this scheme of reconciling a direction really and truly deliberative, with an office really and substantially controlling, is a sort of machinery that can be kept in order but a very short time. Either the directors will dwindle into clerks, or the secretary of state, as hitherto has been the course, will leave everything to them, often through design, often through neglect. If both should affect activity, collision, procrastination, delay, and in the end, utter confusion must ensue.

But, Sir, there is one kind of influence far greater than that of the nomination to office. This, gentlemen in opposition have totally overlooked, although it now exists in its full vigor; and it will do so, upon their scheme, in at least as much force as it does now. That influence this bill cuts up by the roots: I mean the *influence of protection*. I shall explain myself:—The office given to a young man going to India is of trifling consequence. But he that goes out an insignificant boy, in a few years returns a great nabob. Mr. Hastings says he has two hundred and fifty of that kind of raw materials, who expect to be speedily manufactured into the merchantable quality I mention. One of these gentlemen, suppose, returns hither, loaded with odium and with riches. When he comes to England, he comes as to a prison, or as to a sanctuary; and either is ready for him, according to his demeanor. What is the influence in the grant of any place in India, to that which is acquired by the protection or compromise with such guilt, and with the com-

mand of such riches, under the dominion of the hopes and fears which power is able to hold out to every man in that condition? That man's whole fortune, half a million perhaps, becomes an instrument of influence, without a shilling of charge to the civil list; and the influx of fortunes which stand in need of this protection is continual. It works both ways; it influences the delinquent, and it may corrupt the minister. Compare the influence acquired by appointing for instance even a governor general, and that obtained by protecting him. I shall push this no further. But I wish gentlemen to roll it a little in their own minds.

The bill before you cuts off this source of influence. Its design and main scope is to regulate the administration of India upon the principles of a court of judicature; and to exclude, as far as human prudence can exclude, all possibility of a corrupt partiality, in appointing to office, or supporting in office, or covering from inquiry and punishment, any person who has abused or shall abuse his authority. At the board, as appointed and regulated by this bill, reward and punishment cannot be shifted and reversed by a whisper. That commission becomes fatal to cabal, to intrigue, and to secret representation, those instruments of the ruin of India. He that cuts off the means of premature fortune, and the power of protecting it when acquired, strikes a deadly blow at the great fund, the bank, the capital stock of Indian influence, which cannot be vested anywhere, or in any hands, without most dangerous consequences to the public.

The third and contradictory objection is, That this bill does not increase the influence of the crown. On the contrary, That the just power of the crown will be lessened, and transferred to the use of a party, by giving the patronage of India to a commission nominated by parliament, and independent of the crown. The contradiction is glaring, and it has been too well exposed to make it necessary for me to insist upon it. But passing the contradiction, and taking it without any relation, of all objections that is the most extraordinary. Do not gentlemen know, that the crown has not at present the grant of a single office under the company, civil or military, at home or abroad? So far as the crown is concerned, it is certainly rather a gainer for the vacant offices in the new commission are to be filled up by the king.

It is argued as a part of the bill, derogatory to the prerogatives of the crown, that the commissioners named in the bill are to continue for a short term of years, too short in my opinion; and because, during that time, they are not at the mercy of every predominant faction of the court. Does not this objec

tion lie against the present directors; none of whom are named by the crown, and a proportion of whom hold for this very term of four years? Did it not lie against the governor general and council named in the act of 1773—who were invested by name, as the present commissioners are to be appointed in the body of the act of parliament, who were to hold their places for a term of terms, and were not removable at the discretion of the crown? Did it not lie against the re-appointment, in the year 1780, upon the very same terms? Yet at none of these times, whatever other objections the scheme might be liable to, was it supposed to be a derogation to the just prerogative of the crown, that a commission created by act of parliament should have its members named by the authority which called it into existence? This is not the disposal by parliament of any office derived from the authority of the crown, or now disposable by that authority. It is so far from being anything new, violent, or alarming, that I do not recollect, in any parliamentary commission, down to the commissioners of the land tax, that it has ever been otherwise.

The objection of the tenure for four years is an objection to all places that are not held during pleasure; but in that objection I pronounce the gentlemen, from my knowledge of their complexion and of their principles, to be perfectly in earnest. The party (say these gentlemen) of the minister who proposes this scheme will be rendered powerful by it; for he will name his party friends to the commission. This objection against party is a party objection; and in this too these gentlemen are perfectly serious. They see that if, by any intrigue, they should succeed to office, they will lose the *clandestine* patronage, the true instrument of clandestine influence, enjoyed in the name of subservient directors, and of wealthy trembling Indian delinquents. But as often as they are beaten off this ground, they return to it again. The minister will name his friends, and persons of his own party.—Whom should he name? Should he name his adversaries? Should he name those whom he cannot trust? Should he name those to execute his plans, who are the declared enemies to the principles of his reform? His character is here at stake. If he proposes for his own ends (but he never will propose) such names as, from their want of rank, fortune, character, ability, or knowledge, are likely to betray or to fall short of their trust, he is in an independent house of commons; in a house of commons which has, by its own virtue, destroyed the instruments of parliamentary subservience. This house of commons would not endure the sound of such names. He would perish by the means which he is supposed to pursue for the security of his power. The first pledge he

must give of his sincerity in this great reform, will be in the confidence which ought to be reposed in those names.

For my part, Sir, in this business I put all indirect considerations wholly out of my mind. My sole question, on each clause of the bill, amounts to this:—Is the measure proposed required by the necessities of India? I cannot consent totally to lose sight of the real wants of the people who are the objects of it, and to hunt after every matter of party squabble that may be started on the several provisions. On the question of the duration of the commission I am clear and decided. Can I, can any one who has taken the smallest trouble to be informed concerning the affairs of India, amuse himself with so strange an imagination, as that the habitual despotism and oppression, that the monopolies, the peculations, the universal destruction of all the legal authority of this kingdom, which have been for twenty years maturing to their present enormity, combined with the distance of the scene, the boldness and artifice of delinquents, their combination, their excessive wealth, and the faction they have made in England, can be fully corrected in a shorter term than four years? None has hazarded such an assertion—None, who has a regard for his reputation, will hazard it.

Sir, the gentlemen, whoever they are, who shall be appointed to this commission, have an undertaking of magnitude on their hands, and their stability must not only be, but it must be thought, real;—and who is it will believe, that anything short of an establishment made, supported, and fixed in its duration, with all the authority of parliament, can be thought secure of a reasonable stability? The plan of my honorable friend is the reverse of that of reforming by the authors of the abuse. The best we could expect from them is, that they should not continue their ancient pernicious activity. To those we could think of nothing but applying *control;* as we are sure, that even a regard to their reputation (if any such thing exists in them) would oblige them to cover, to conceal, to suppress, and consequently to prevent, all cure of the grievances of India. For what can be discovered, which is not to their disgrace? Every attempt to correct an abuse would be a satire on their former administration. Every man they should pretend to call to an account, would be found their instrument or their accomplice. They can never see a beneficial regulation, but with a view to defeat it. The shorter the tenure of such persons, the better would be the chance of some amendment.

But the system of the bill is different. It calls in persons in nowise concerned with any act censured by parliament; persons generated with, and for, the reform, of which they are

themselves the most essential part. To these the chief regulations in the bill are helps, not fetters; they are authorities to support, not regulations to restrain them. From these we look for much more than innocence. From these we expect zeal, firmness, and unremitted activity. Their duty, their character, binds them to proceedings of vigor; and they ought to have a tenure in their office which precludes all fear, whilst they are acting up to the purposes of their trust; a tenure without which, none will undertake plans that require a series and system of acts. When they know that they cannot be whispered out of their duty, that their public conduct cannot be censured without a public discussion; that the schemes which they have begun will not be committed to those who will have an interest and credit in defeating and disgracing them; then we may entertain hopes. The tenure is for four years, or during their good behaviour. That good behaviour is as long as they are true to the principles of the bill; and the judgment is in either house of parliament. This is the tenure of your judges; and the valuable principle of the bill is to make a judicial administration for India. It is to give confidence in the execution of a duty, which requires as much perseverance and fortitude as can fall to the lot of any that is born of woman.

As to gain by party, from the right honorable gentleman's bill, let it be shown, that this supposed party advantage is pernicious to its object, and the objection is of weight; but until this is done, and this has not been attempted, I shall consider the sole objection, from its tendency to promote the interest of a party, as altogether contemptible. The kingdom is divided into parties, and it ever has been so divided, and it ever will be so divided; and if no system for relieving the subjects of this kingdom from oppression, and snatching its affairs from ruin, can be adopted until it is demonstrated that no party can derive an advantage from it, no good can ever be done in this country. If party is to derive an advantage from the reform of India, (which is more than I know, or believe,) it ought to be that party which alone, in this kingdom, has its reputation, nay its very being, pledged to the protection and preservation of that part of the empire. Great fear is expressed, that the commissioners named in this bill will show some regard to a minister out of place. To men made like the objectors, this must appear criminal. Let it however be remembered by others, that if the commissioners should be his friends, they cannot be his slaves. But dependants are not in a condition to adhere to friends, nor to principles, nor to any uniform line of conduct They may begin censors, and be obliged to end accomplices

They may be even put under the direction of those whom they were appointed to punish.

The fourth and last objection is, that the bill will hurt public credit. I do not know whether this requires an answer. But if it does, look to your foundations. The sinking fund is the pillar of credit in this country; and let it not be forgot, that the distresses, owing to the mismanagement of the East India company, have already taken a million from that fund by the non-payment of duties. The bills drawn upon the company, which are about four millions, cannot be accepted without the consent of the treasury.

The treasury, acting under a parliamentary trust and authority, pledges the public for these millions. If they pledge the public, the public must have a security in its hands for the management of this interest, or the national credit is gone. For otherwise it is not only the East India company, which is a great interest, that is undone, but, clinging to the security of all your funds, it drags down the rest, and the whole fabric perishes in one ruin. If this bill does not provide a direction of integrity and of ability competent to that trust, the objection is fatal. If it does, public credit must depend on the support of the bill.

It has been said, if you violate this charter, what security has the charter of the bank, in which public credit is so deeply concerned, and even the charter of London, in which the rights of so many subjects are involved? I answer, in the like case they have no security at all—No—no security at all. If the bank should, by every species of mismanagement, fall into a state similar to that of the East India company; if it should be oppressed with demands it could not answer, engagements which it could not perform, and with bills for which it could not procure payment; no charter should protect the mismangement from correction, and such public grievances from redress. If the city of London had the means and will of destroying an empire, and of cruelly oppressing and tyrannizing over millions of men as good as themselves, the charter of the city of London should prove no sanction to such tyranny and such oppression. Charters are kept, when their purposes are maintained: they are violated, when the privilege is supported against its end and its object.

Now, Sir, I have finished all I proposed to say, as my reasons for giving my vote to this bill. If I am wrong, it is not for want of pains to know what is right. This pledge, at least, of my rectitude I have given to my country.

And now, having done my duty to the bill, let me say a word to the author. I should leave him to his own noble sen-

uments, if the unworthy and illiberal language with which he has been treated, beyond all example of parliamentary liberty, did not make few words necessary; not so much in justice to him, as to my own feelings. I must say then, that it will be a distinction honorable to the age, that the rescue of the greatest number of the human race that ever were so grievously oppressed, from the greatest tyranny that was ever exercised, has fallen to the lot of abilities and dispositions equal to the task; that it has fallen to one who has the enlargement to comprehend, the spirit to undertake, and the eloquence to support, so great a measure of hazardous benevolence. His spirit is not owing to his ignorance of the state of men and things: he well knows what snares are spread about his path, from personal animosity, from court intrigues, and possibly from popular delusion. But he has put to hazard his ease, his security, his interest, his power, even his darling popularity, for the benefit of a people whom he has never seen. This is the road that all heroes have trod before him. He is traduced and abused for his supposed motives. He will remember, that obloquy is a necessary ingredient in the composition of all true glory: he will remember, that it was not only in the Roman customs, but it is in the nature and constitution of things, that calumny and abuse are essential parts of triumph. These thoughts will support a mind, which only exists for honor, under the burthen of temporary reproach. He is doing indeed a great good; such as rarely falls to the lot, and almost as rarely coincides with the desires of any man. Let him use his time. Let him give the whole length of the reins to his benevolence. He is now on a great eminence, where the eyes of mankind are turned to him. He may live long, he may do much. But here is the summit. He never can exceed what he does this day.

He has faults; but they are faults that, though they may in a small degree tarnish the lustre, and sometimes impede the march of his abilities, have nothing in them to extinguish the fire of great virtues. In those faults, there is no mixture of deceit, of hypocrisy, of pride, of ferocity, of complexional despotism, or want of feeling for the distresses of mankind. His are faults which might exist in a descendant of Henry the Fourth of France, as they did exist in that father of his country. Henry the Fourth wished that he might live to see a fowl in the pot of every peasant in his kingdom. That sentiment of homely benevolence was worth all the splendid sayings that are recorded of kings. But he wished perhaps for more than could be obtained, and the goodness of the man exceeded the power of the king. But this gentleman, a subject, may this day say this at least, with truth, that he secures the rice in

his pot to every man in India. A poet of antiquity thought it one of the first distinctions to a prince whom he meant to celebrate, that through a long succession of generations, he had been the progenitor of an able and virtuous citizen, who, by force of the arts of peace, had corrected governments of oppression, and suppressed wars of rapine.

> Indole proh quanta juvenis, quantumque daturus
> Ausoniæ populis, ventura in sæcula civem.
> Ille super Gangem, super exaudiuta et Indos,
> Implebit terras voce; et furialia bella
> Fulmine compescet linguæ.——

This was what was said of the predecessor of the only person to whose eloquence it does not wrong that of the mover of this bill to be compared. But the Ganges and the Indus are the patrimony of the fame of my honorable friend, and not of Cicero. I confess, I anticipate with joy the reward of those, whose whole consequence, power, and authority, exist only for the benefit of mankind; and I carry my mind to all the people, and all the names and descriptions, that, relieved by this bill, will bless the labors of this parliament, and the confidence which the best house of commons has given to him who the best deserves it. The little cavils of party will not be heard, where freedom and happiness will be felt. There is not a tongue, a nation, or religion in India, which will not bless the presiding care and manly beneficence of this house, and of him who proposes to you this great work. Your names will never be separated before the throne of the Divine Goodness, in whatever language, or with whatever rites, pardon is asked for sin, and reward for those who imitate the Godhead in his universal bounty to his creatures. These honors you deserve, and they will surely be paid, when all the jargon of influence, and party, and patronage, are swept into oblivion.

I have spoken what I think, and what I feel, of the mover of this bill. An honorable friend of mine, speaking of his merits, was charged with having made a studied panegyric. I don't know what his was. Mine, I am sure, is a studied panegyric; the fruit of much meditation; the result of the observation of near twenty years. For my own part, I am happy that I have lived to see this day; I feel myself overpaid for the labors of eighteen years, when, at this late period, I am able to take my share, by one humble vote, in destroying a tyranny that exists to the disgrace of this nation, and the destruction of so large a part of the human species.

EXTRACT FROM THE

SPEECH OF MR. BURKE,

ON OPENING THE IMPEACHMENT OF WARREN HASTINGS, ESQ., FEBRUARY 15 AND 16, 1788.

My Lords,

The gentlemen who have it in command to support the impeachment against Mr. Hastings, have directed me to open the cause with a general view of the grounds, upon which the Commons have proceeded in their charge against him. They have directed me to accompany this with another general view of the extent, the magnitude, the nature, the tendency, and the effect of the crimes, which they allege to have been by him committed. They have also directed me to give an explanation (with their aid I may be enabled to give it) of such circumstances, preceding the crimes charged on Mr. Hastings, or concomitant with them, as may tend to elucidate whatever may be found obscure in the articles as they stand. To these they wished me to add a few illustrative remarks on the laws, customs, opinions, and manners of the people concerned, and who are the objects of the crimes we charge on Mr. Hastings.

The several articles, as they appear before you, will be opened by other gentlemen with more particularity, with more distinctness, and, without doubt, with infinitely more ability, when they come to apply the evidence, which naturally belongs to each article of this accusation. This, my lords, is the plan which we mean to pursue, on the great charge which is now to abide your judgment.

My lords, I must look upon it as an auspicious circumstance to this cause, in which the honor of the kingdom and the fate of many nations are involved, that, from the first commencement of our parliamentary process to this the hour of solemn trial, not the smallest difference of opinion has arisen between the two houses.

My lords, there are persons, who, looking rather upon what was to be found in our records and histories, than what was to be expected from the public justice, had formed hopes consolatory to themselves and dishonorable to us. They flattered themselves, that the corruptions of India would escape amidst the dissensions of parliament. They are disappointed. They will be disappointed in all the rest of their expectations, which

they have formed upon everything, except the merits of their cause. The Commons will not have the melancholy unsocial glory of having acted a solitary part in a noble, but imperfect, work. What the greatest inquest of the nation has begun, its highest tribunal will accomplish. At length justice will be done to India. It is true, that your lordships will have your full share in this great achievement; but the Commons have always considered, that whatever honor is divided with you is doubled on themselves.

My lords, I must confess, that amidst these encouraging prospects the Commons do not approach your bar without awe and anxiety. The magnitude of the interests, which we have in charge, will reconcile some degree of solicitude for the event with the undoubting confidence, with which we repose ourselves upon your lordship's justice. For we are men, my lords; and men are so made, that it is not only the greatness of danger, but the value of the adventure, which measures the degree of our concern in every undertaking. I solemnly assure your lordships, that no standard is sufficient to estimate the value, which the Commons set upon the event of the cause they now bring before you. My lords, the business of this day is not the business of this man—it is not solely, whether the prisoner at the bar be found innocent, or guilty; but whether millions of mankind shall be made miserable, or happy.

Your lordships will see in the progress of this cause, that there is not only a long connected, systematic series of misdemeanors, but an equally connected system of maxims and principles, invented to justify them. Upon both of these you must judge. According to the judgment, that you shall give upon the past transactions in India, inseparably connected as they are with the principles which support them, the whole character of your future government in that distant empire is to be unalterably decided. It will take its perpetual tenor, it will receive its final impression, from the stamp of this very hour.

It is not only the interest of India, now the most considerable part of the British empire, which is concerned, but the credit and honor of the British nation itself will be decided by this decision. We are to decide by this judgment, whether the crimes of individuals are to be turned into public guilt and national ignominy; or whether this nation will convert the very offences, which have thrown a transient shade upon its government, into something, that will reflect a permanent lustre upon the honor, justice, and humanity of this kingdom.

My lords, there is another consideration, which augments the solicitude of the Commons, equal to those other two great

interests I have stated, those of our empire and our national character; something, that, if possible, comes more home to the hearts and feelings of every Englishman: I mean, the interests of our constitution itself, which is deeply involved in the event of this cause. The future use, and the whole effect, if not the very existence, of the process of an impeachment of high crimes and misdemeanors before the peers of this kingdom, upon the charge of the Commons, will very much be decided by your judgment in this cause. This tribunal will be found (I hope it will always be found) too great for petty causes: if it should at the same time be found incompetent to one of the greatest; that is, if little offences, from their minuteness, escape you, and the greatest, from their magnitude, oppress you; it is impossible, that this form of trial should not, in the end, vanish out of the constitution. For we must not deceive ourselves: whatever does not stand with credit cannot stand long. And if the constitution should be deprived, I do not mean in form, but virtually, of this resource, it is virtually deprived of everything else, that is valuable in it. For this process is the cement, which binds the whole together; this is the individuating principle, that makes England what England is. In this court it is, that no subject, in no part of the empire, can fail of competent and proportionable justice: here it is, that we provide for that, which is the substantial excellence of our constitution; I mean, the great circulation of responsibility, by which (excepting the supreme power) no man, in no circumstance, can escape the account, which he owes to the laws of his country. It is by this process, that magistracy, which tries and controls all other things, is itself tried and controlled. Other constitutions are satisfied with making good subjects; this is a security for good governors. It is by this tribunal, that statesmen, who abuse their power, are accused by statesmen, and tried by statesmen, not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality. It is here, that those, who by the abuse of power have violated the spirit of law, can never hope for protection from any of its forms:—it is here, that those, who have refused to conform themselves to its perfections, can never hope to escape through any of its defects. It ought, therefore my lords, to become our common care to guard this your precious deposit, rare in its use, but powerful in its effect, with a religious vigilance, and never to suffer it to be either discredited or antiquated. For this great end your lordships are invested with great and plenary powers: but you do not suspend, you do not supersede, you do not annihilate any subordinate

jurisdiction; on the contrary, you are auxiliary and supplemental to them all.

Whether it is owing to the felicity of our times, less fertile in great offences, than those, which have gone before us; or whether it is from a sluggish apathy, which has dulled and enervated the public justice, I am not called upon to determine: but, whatever may be the cause, it is now sixty-three years since any impeachment, grounded upon abuse of authority and misdemeanor in office, has come before this tribunal. The last is that of Lord Macclesfield, which happened in the year 1725. So that the oldest process known to the constitution of this country has, upon its revival, some appearance of novelty. At this time, when all Europe is in a state of, perhaps, contagious fermentation; when antiquity has lost all its reverence and all its effect on the minds of men, at the same time that novelty is still attended with the suspicions, that always will be attached to whatever is new; we have been anxiously careful in a business, which seems to combine the objections both to what is antiquated and what is novel, so to conduct ourselves, that nothing in the revival of this great parliamentary process shall afford a pretext for its future disuse.

My lords, strongly impressed as they are with these sentiments, the commons have conducted themselves with singular care and caution. Without losing the spirit and zeal of a public prosecution, they have comported themselves with such moderation, temper, and decorum, as would not have ill become the final judgment, if with them rested the final judgment, of this great cause.

With very few intermissions, the affairs of India have constantly engaged the attention of the Commons for more than fourteen years. We may safely affirm, we have tried every mode of legislative provision, before we had recourse to anything of penal process. It was in the year 1774 we framed an act of parliament for remedy to the then existing disorders in India such as the then information before us enabled us to enact. Finding, that the act of parliament did not answer all the ends that were expected from it, we had, in the year 1782, recourse to a body of monitory resolutions. Neither had we the expected fruit from them. When, therefore, we found, that our inquiries and our reports, our laws and our admonitions, were alike despised; that enormities increased in proportion as they were forbidden, detected, and exposed; when we found, that guilt stalked with an erect and upright front, and that legal authority seemed to skulk and hide its head like outlawed guilt; when we found, that some of those very persons, who were appointed by parliament to assert the authority of the laws of

this kingdom, were the most forward, the most bold, and the most active, in the conspiracy for their destruction, then it was time for the justice of the nation to re-collect itself. To have forborne longer would not have been patience, but collusion; it would have been participation with guilt; it would have been to make ourselves accomplices with the criminal.

We found it was impossible to evade painful duty, without betraying a sacred trust. Having, therefore, resolved upon the last and only resource, a penal prosecution, it was our next business to act in a manner worthy of our long deliberation. In all points we proceeded with selection. We have chosen (we trust, it will so appear to your lordships) such a crime, and such a criminal, and such a body of evidence, and such a mode of process, as would have recommended this course of justice to posterity, even if it had not been supported by any example in the practice of our forefathers.

First, to speak of the process: we are to inform your lordships, that, besides that long previous deliberation of fourteen years, we examined, as a preliminary to this proceeding, every circumstance, which could prove favorable to parties apparently delinquent, before we finally resolved to prosecute. There was no precedent to be found, in the journals, favorable to persons in Mr. Hastings's circumstances, that was not applied to. Many measures utterly unknown to former parliamentary proceedings, and which, indeed, seemed in some degree to enfeeble them, but which were all to the advantage of those that were to be prosecuted, were adopted, for the first time, upon this occasion.—In an early stage of the proceeding, the criminal desired to be heard. He was heard; and he produced before the bar of the House that insolent and unbecoming paper, which lies upon our table. It was deliberately given in by his own hand, and signed with his own name. The Commons, however, passed by everything offensive in that paper with a magnanimity, that became them. They considered nothing in it, but the facts that the defendant alleged, and the principles he maintained; and after a deliberation, not short of judicial, we proceeded with confidence to your bar.

So far as to the process; which, though I mentioned last in the line and order, in which I stated the objects of our selection, I thought it best to dispatch first.

As to the crime, which we chose, we first considered well what it was in its nature, under all the circumstances, which attended it. We weighed it with all its extenuations, and with all its aggravations. On that review we are warranted to assert, that the crimes, with which we charge the prisoner at the bar, are substantial crimes; that they are no errors or mistake-

such as wise and good men might possibly fall into; which may even produce very pernicious effects, without being in fact great offences. The Commons are too liberal, not to allow for the difficulties of a great and arduous public situation. They know too well the domineering necessities, which frequently occur in all great affairs. They know the exigency of a pressing occasion, which, in its precipitate career, bears everything down before it, which does not give time to the mind to recollect its faculties, to reinforce its reason, and to have recourse to fixed principles, but, by compelling an instant and tumultuous decision, too often obliges men to decide in a manner, that calm judgment would certainly have rejected. We know, as we are to be served by men, that the persons, who serve us, must be tried as men, and with a very large allowance indeed, to human infirmity and human error. This, my lords, we knew, and we weighed before we came before you. But the crimes which we charge in these articles, are not lapses, defects, errors, of common frailty, which, as we know and feel, we can allow for. We charge this offender with no crimes, that have not arisen from passions, which it is criminal to harbor; with no offences, that have not their root in avarice, rapacity, pride; insolence, ferocity, treachery, cruelty, malignity of temper; in short, in nothing, that does not argue a total extinction of all moral principle; that does not manifest an inveterate blackness of heart, died in grain with malice, vitiated, corrupted, gangrened to the very core. If we do not plant his crimes in those vices, which the breast of man is made to abhor, and the spirit of all laws, human and divine, to interdict, we desire no longer to be heard upon this occasion. Let everything, that can be pleaded on the ground of surprise or error, upon those grounds be pleaded with success: we give up the whole of those predicaments. We urge no crimes, that were not crimes of forethought. We charge him with nothing, that he did not commit upon deliberation; that he did not commit against advice, supplication, and remonstrance; that he did not commit against the direct command of lawful authority; that he did not commit after reproof and reprimand, the reproof and reprimand of those who are authorized by the laws to reprove and reprimand him. The crimes of Mr. Hastings are crimes, not only in themselves, but aggravated by being crimes of contumacy. They were crimes, not against forms, but against those eternal laws of justice, which are our rule and our birthright. His offences are not, in formal, technical language, but in reality, in substance and effect, *high* crimes and high misdemeanors

So far as to the crimes. As to the criminal, we have chosen

nim on the same principle, on which we selected the crimes. We have not chosen to bring before you a poor, puny, trembling delinquent, misled, perhaps, by those, who ought to have taught him better, but who have afterwards oppressed him by their power, as they had first corrupted him by their example. Instances there have been many, when the punishment of minor offences, in inferior persons, has been made the means of screening crimes of a high order, and in men of high description. Our course is different. We have not brought before you an obscure offender, who, when his insignificance and weakness are weighed against the power of the prosecution, gives even to public justice something of the appearance of oppression; no, my lords, we have brought before you the first man of India in rank, authority, and station. We have brought before you the chief of the tribe, the head of the whole body of eastern offenders; a captain-general of iniquity, under whom all the fraud, all the peculation, all the tyranny, in India, are embodied, disciplined, arrayed, and paid. This is the person, my lords, that we bring before you. We have brought before you such a person, that, if you strike at him with the firm arm of justice, you will not have need of a great many more examples. You strike at the whole corps, if you strike at the head.

So far as to the crime: so far as to the criminal. Now, my lords, I shall say a few words relative to the evidence, which we have brought to support such a charge, and which ought to be equal in weight to the charge itself. It is chiefly evidence of record, officially signed by the criminal himself in many instances. We have brought before you his own letters, authenticated by his own hand. On these we chiefly rely. But we shall likewise bring before you living witnesses, competent to speak to the points, to which they are brought.

When you consider the late enormous power of the prisoner; when you consider his criminal, indefatigable assiduity in the destruction of all recorded evidence; when you consider the influence he has over almost all living testimony; when you consider the distance of the scene of action; I believe your lordships, and I believe the world, will be astonished, that so much, so clear, so solid, and so conclusive evidence of all kinds has been obtained against him. I have no doubt, that in nine instances in ten the evidence is such as would satisfy the narrow precision supposed to prevail, and to a degree rightly to prevail, in all subordinate power and delegated jurisdiction. But your lordships will maintain, what we assert and claim as the right of the subjects of Great Britain—that you are not

bound by any rules of evidence, or any other rules whatever, except those of natural, immutable, and substantial justice.

God forbid the Commons should desire, that anything should be received as proof from them, which is not by nature adapted to prove the thing in question. If they should make such a request, they would aim at overturning the very principles of that justice, to which they resort. They would give the nation an evil example, that would rebound back on themselves, and bring destruction upon their own heads, and on those of all their posterity.

On the other hand, I have too much confidence in the learning with which you will be advised, and the liberality and nobleness of the sentiments with which you are born, to suspect, that you would, by any abuse of the forms, and a technical course of proceeding, deny justice to so great a part of the world, that claims it at your hands. Your lordships always had an ample power, and almost unlimited jurisdiction; you have now a boundless object. It is not from this district, or from that parish, not from this city, or the other province, that relief is now applied for: exiled and undone princes, extensive tribes, suffering nations, infinite descriptions of men, different in language, in manners, and in rites—men, separated by every barrier of nature from you, by the providence of God are blended in one common cause, and are now become suppliants at your bar. For the honor of this nation, in vindication of this mysterious providence, let it be known, that no rule formed upon municipal maxims (if any such rule exists) will prevent the course of that imperial justice, which you owe to the people, that call to you from all parts of a great disjointed world. For, situated as this kingdom is, an object, thank God, of envy to the rest of the nations; its conduct in that high and elevated situation will undoubtedly be scrutinized with a severity as great as its power is invidious.

It is well known, that enormous wealth has poured into this country from India through a thousand channels, public and concealed; and it is no particular derogation from our honor to suppose a possibility of being corrupted by that, by which other empires have been corrupted, and assemblies, almost as respectable and venerable as your lordships, have been directly or indirectly vitiated. Forty millions of money, at least, have within our memory been brought from India into England. In this case the most sacred judicature ought to look to its reputation. Without offence we may venture to suggest, that the best way to secure reputation is, not by a proud defiance of public opinion, but by guiding our actions in such a manner, as that public opinion may in the end be securely defied, by hav

ing been previously respected and dreaded. No direct false judgment is apprehended from the tribunals of this country. But it is feared, that partiality may lurk and nestle in the abuse of our forms of proceeding. It is necessary, therefore, that nothing in that proceeding should appear to mark the slightest trace, should betray the faintest odor, of chicane. God forbid, that, when you try the most serious of all causes, that when you try the cause of Asia in the presence of Europe, there should be the least suspicion, that a narrow partiality, utterly destructive of justice, should so guide us, that a British subject in power should appear in substance to possess rights, which are denied to the humble allies, to the attached dependants of this kingdom, who by their distance have a double demand upon your protection, and who, by an implicit (I hope not a weak and useless) trust in you, have stripped themselves of every other resource under heaven.

I do not say this from any fear, doubt, or hesitation, concerning what your lordships will finally do: none in the world but I cannot shut my ears to the rumors, which you all know to be disseminated abroad. The abusers of power may have a chance to cover themselves by those fences and intrenchments which were made to secure the liberties of the people against men of that very description. But God forbid it should be bruited from Pekin to Paris, that the laws of England are for the rich and the powerful; but to the poor, the miserable, and defenceless, they afford no resource at all. God forbid it should be said, no nation is equal to the English in *substantial* violence and in *formal* justice—that in this kingdom we feel ourselves competent to confer the most extravagant and inordinate powers upon public ministers, but that we are deficient, poor helpless, lame, and impotent in the means of calling them to account for their use of them. An opinion has been insidiously circulated through this kingdom, and through foreign nations too, that, in order to cover our participation in guilt, and our common interest in the plunder of the East, we have invented a set of scholastic distinctions, abhorrent to the common sense, and unpropitious to the common necessities, of mankind; by which we are to deny ourselves the knowledge of what the rest of the world knows, and what so great a part of the world both knows and feels. I do not deprecate any appearance which may give countenance to this aspersion, from suspicion that any corrupt motive can influence this court; I deprecate it from knowing, that hitherto we have moved within the narrow circle of municipal justice. I am afraid, that, from the habits acquired by moving within a circumscribed sphere, we may be induced rather to endeavor at forcing nature into that municipal

circle, than to enlarge the circle of national justice to the necessities of the empire we have obtained.

This is the only thing, which does create any doubt or difficulty in the minds of sober people. But there are those, who will not judge so equitably. Where two motives, neither of them perfectly justifiable, may be assigned, the worst has the chance of being preferred. If, from any appearance of chicane in the court, justice should fail, all men will say, better there were no tribunals at all. In my humble opinion, it would be better a thousand times to give all complainants the short answer the Dey of Algiers gave a British ambassador, representing certain grievances suffered by the British merchants,—"My friend," (as the story is related by Dr. Shawe) "do not you know, that my subjects are a band of robbers, and that I am their captain?" —better it would be a thousand times, and a thousand thousand times more manly, than a hypocritical process, which, under a pretended reverence to punctilious ceremonies and observances of law, abandons mankind, without help and resource to all the desolating consequences of arbitrary power. The conduct and event of this cause will put an end to such doubts, wherever they may be entertained. Your lordships will exercise the great plenary powers, with which you are invested, in a manner, that will do honor to the protecting justice of this kingdom, that will completely avenge the great people, who are subjected to it. You will not suffer your proceedings to be squared by any rules, but by their necessities, and by that law of a common nature, which cements them to us, and us to them. The reports to the contrary have been spread abroad with uncommon industry; but they will be speedily refuted by the humanity, simplicity, dignity, and nobleness of your lordships' justice.

The first thing, in considering the merits or demerits of any governor, is to have some test, by which they are to be tried. And here, my lords, we conceive, that when a British governor is sent abroad, he is sent to pursue the good of the people as much as possible in the spirit of the laws of this country, which in all respects intend their conservation, their happiness, and their prosperity. This is the principle, upon which Mr. Hastings was bound to govern, and upon which he is to account for his conduct here.

His rule was, what a British governor, intrusted with the power of this country, was bound to do, or to forbear. If he has performed, and if he has abstained, as he ought, dismiss him honorably acquitted from your bar—otherwise condemn him. He may resort to other principles and to other maxims; but this country will force him to be tried by its laws. The

law of this country recognizes that well-known crime, called misconduct in office; it is a head of the law of England, and, so far as inferior courts are competent to try it, may be tried in them. Here, your lordships' competence is plenary; you are fully competent both to inquire into, and to punish the offence. And, first, I am to state to your lordships, by the direction of those whom I am bound to obey, the principles on which Mr. Hastings declares he has conducted his government; principles, which he has avowed—first, in several letters written to the East India company—next, in a paper of defence, delivered to the House of Commons, explicitly; and more explicitly in his defence before your lordships. Nothing in Mr. Hastings's proceedings is so curious as his several defences; and nothing in the defences is so singular, as the principles, upon which he proceeds. Your lordships will have to decide not only upon a large, connected, systematic train of misdemeanors, but an equally connected system of principles and maxims of government, invented to justify those misdemeanors. He has brought them forward and avowed them in the face of the day. He has boldly and insultingly thrown them in the face of the representatives of a free people, and we cannot pass them by without adopting them.

I am directed to protest against those grounds and principles upon which he frames his defence; for, if those grounds are good and valid, they carry off a great deal at least, if not entirely, the foundation of our charge. My lords, we contend that Mr. Hastings, as a British governor, ought to govern on British principles, not by British forms—God forbid; for, if ever there was a case, in which the letter kills and the spirit gives life, it would be an attempt to introduce British forms and the substance of despotic principles together into any country. No. We call for that spirit of equity, that spirit of justice, that spirit of protection, that spirit of lenity, which ought to characterize every British subject in power; and on these, and these principles only, he will be tried.

But he has told your lordships, in his defence, that actions in Asia do not bear the same moral qualities, which the same actions would bear in Europe.

My lords, we positively deny that principle. I am authorized and called upon to deny it. And having stated at large what he means by saying, that the same actions have not the same qualities in Asia and in Europe, we are to let your lordships know, that these gentlemen have formed a plan of *geographical morality*, by which the duties of men, in public and in private situations, are not to be governed by their relation to the great Governor of the universe, or by their relation to mankind, but

by climates, degrees of longitude, parallels not of life but of latitudes; as if, when you have crossed the equinoctial, all the virtues die, as they say some insects die, when they cross the line; as if there were a kind of baptism, like that practised by seamen, by which they unbaptize themselves of all that they learned in Europe, and after which a new order and system of things commenced.

This geographical morality we do protest against. Mr. Hastings shall not screen himself under it; and on this point I hope and trust many words will not be necessary to satisfy your lordships. But we think it necessary, in justification of ourselves, to declare, that the laws of morality are the same everywhere; and that there is no action, which would pass for an act of exhortation, of peculation, of bribery, and of oppression in England, that is not an act of extortion, of peculation, of bribery, and oppression, in Europe. Asia, Africa, and all the world over. This I contend for, not in the technical forms of it, but I contend for it in the substance.

Mr. Hastings comes before your lordships not as a British governor answering to a British tribunal, but as a soubahdar, as a bashaw of three tails. He says, "I had an arbitrary power to exercise: I exercised it. Slaves I found the people, slaves they are, they are so by their constitution; and if they are, I did not make it for them. I was unfortunately bound to exercise this arbitrary power, and accordingly I did exercise it. It was disagreeable to me, but I did exercise it, and no other power can be exercised in that country." This, if it be true, is a plea in bar. But I trust and hope your lordships will not judge, by laws and institutions which you do not know, against those laws and institutions which you do know, and under whose power and authority Mr. Hastings went out to India. Can your lordships patiently hear what *we* have heard with indignation enough, and what, if there were nothing else, would call these principles, as well as the actions which are justified on such principles, to your lordships' bar; that it may be known whether the Peers of England do not sympathize with the Commons in their detestation of such doctrine? Think of an English governor tried before you as a British subject, and yet declaring, that he governed on the principles of arbitrary power. His plea is, that he did govern there on arbitrary and despotic, and, as he supposes, oriental principles. And as this plea is boldly avowed and maintained, and as, no doubt, all his conduct was perfectly correspondent to these principles, the principles and the conduct must be tried together.

If your lordships will now permit me, I will state one of the many places, in which he has avowed these principles as the

basis and foundation of all his conduct. "The sovereignty, which they assumed, it fell to my lot, very unexpectedly, to exert; and whether or not such power, or powers of that nature, were delegated to me by any provisions of any act of parliament, I confess myself too little of a lawyer to pronounce. I only know, that the acceptance of the sovereignty of Benares, &c. is not acknowledged or admitted by any act of parliament; and yet, by the particular interference of the majority of the council, the company is clearly and indisputably seized of that sovereignty." So that this gentleman, because he is not a lawyer, nor clothed with those robes which distinguish and well distinguish the learning of this country, is not to know anything of his duty; and whether he was bound by any, or what act of parliament, is a thing he is not lawyer enough to know. Now, if your lordships will suffer the laws to be broken by those who are not of the long robe, I am afraid those of the long robe will have none to punish but those of their own profession. He therefore goes to a law he is better acquainted with; that is, the law of arbitrary power and force, if it deserves to be called by the name of law. "If, therefore," says he, "the *sovereignty* of Benares, as ceded to us by the vizier, have *any rights whatever* annexed to it, (and be not a mere empty word without meaning,) those rights must be such as are held, countenanced, and established by the law, custom, and usage of the Mogul empire, and not by the provisions of any British act of parliament hitherto enacted. *Those rights*, and none other, I have been the involuntary instrument of enforcing. And if any future act of parliament shall positively, or by implication, tend to annihilate those very rights, or their exertion, as I have exerted them, I much fear, that the boasted sovereignty of Benares, which was held up as an acquisition almost obtruded on the company against my consent and opinion, (for I acknowledge, that even then I foresaw many difficulties and inconveniences in its future exercise;) I fear, I say, that this sovereignty will be found a burden instead of a benefit, a heavy clog rather than a precious gem to its present possessors; I mean, unless the whole of our territory in that quarter shall be rounded and made an uniform compact body by one grand and systematic arrangement; such an arrangement as shall do away all the mischiefs, doubts, and inconveniences (both to the governors and the governed) arising from the variety of tenures rights, and claims in all cases of landed property and feuda jurisdiction in India, from the informality, invalidity, and insta bility of all engagements in so divided and unsettled a state of society; and from the unavoidable anarchy and confusion of different laws, religions, and prejudices, moral, civil, and politi

cal, all jumbled together in one unnatural and discordant mass Every part of Hindostan has been constantly exposed to these and similar disadvantages ever since the Mahomedan conquests."

"The Hindûs, who never incorporated with their conquerors, were kept in order only by the strong hand of power. The constant necessity of similar exertions would increase at once their energy and extent, so that rebellion itself is the parent and promoter of despotism. Sovereignty in India implies nothing else. For I know not how we can form an estimate of its powers, but from its visible effects, and those are everywhere the same from Cabool to Assam. The whole history of Asia is nothing more than precedents to prove the invariable exercise of arbitrary power. To all this I strongly alluded in the minutes I delivered in council, when the treaty with the new vizier was on foot in 1775; and I wished to make Cheit Sing independent, because in India dependence included a thousand evils, many of which I enumerated at that time, and they are entered in the ninth clause of the first section of this charge. I knew the powers with which an Indian sovereignty is armed, and the dangers to which tributaries are exposed. I knew, that, from the history of Asia, and from the very nature of mankind, the subjects of a despotic empire are always vigilant for the moment to rebel, and the sovereign is ever jealous of rebellious intentions. A zemindar is an Indian subject, and, as such, exposed to the common lot of his fellows. *The mean and depraved state of a mere zemindar* is therefore this very dependence above-mentioned on a despotic government, this very proneness to shake off his allegiance, and this very exposure to continual danger from his sovereign's jealousy, which are consequent on the political state of Hindostanic governments. Bulwant Sing, if he had been, and Cheit Sing, as long as he was, a zemindar, stood exactly in this *mean and depraved state* by the constitution of his country. I did not make it for him, but would have secured him from it. Those who made him a zemindar, entailed upon him the consequences of so mean and depraved a tenure. Ally Verdy Cawn and Cossim Ally fined all their zemindars on the necessities of war, and on every pretence either of court necessity or court extravagance."

My lords, you have now heard the principles, on which Mr. Hastings governs the part of Asia subjected to the British empire. You have heard his opinion of the mean and depraved state of those who are subject to it. You have heard his lecture upon arbitrary power, which he states to be the constitution of Asia. You hear the application he makes of it; and you hear the practices which he employs to justify it, and who

the persons were, on whose authority he relies, and whose example he professes to follow. In the first place, your lordships will be astonished at the audacity, with which he speaks of his own administration, as if he was reading a speculative lecture on the evils attendant upon some vicious system of foreign government, in which he had no sort of concern whatever. And then, when in this speculative way he has established, or thinks he has, the vices of the government, he conceives he has found a sufficient apology for his own crimes. And if he violates the most solemn engagements, if he oppresses, extorts, and robs, if he imprisons, confiscates, banishes, at his sole will and pleasure, when we accuse him for his ill treatment of the people committed to him as a sacred trust, his defence is,—to be robbed, violated, oppressed, is their privilege—let the constitution of their country answer for it.—I did not make it for them. Slaves I found them, and as slaves I have treated them. I was a despotic prince, despotic governments are jealous, and the subjects prone to rebellion. This very proneness of the subject to shake off his allegiance exposes him to continual danger from his sovereign's jealousy; and this is consequent on the political state of Hindostanic governments. He lays it down as a rule, that despotism is the genuine constitution of India, that a disposition to rebellion in the subject, or dependent, prince is the necessary effect of this despotism, and that jealousy and its consequences naturally arise on the part of a sovereign—that the government is everything, and the subject nothing—that the great landed men are in a mean and depraved state, and subject to many evils.

Such a state of things, if true, would warrant conclusions directly opposite to those which Mr. Hastings means to draw from them, both argumentatively and practically, first to influence his conduct, and then to bottom his defence of it.

Perhaps you will imagine, that the man who avows these principles of arbitrary government, and pleads them as the justification of acts which nothing else can justify, is of opinion, that they are on the whole good for the people, over whom they are exercised. The very reverse. He mentions them as horrible things, tending to inflict on the people a thousand evils, and to bring on the ruler a continual train of dangers. Yet he states, that your acquisitions in India will be a detriment instead of an advantage, if you destroy arbitrary power, unless you can reduce all the religious establishments, all the civil institutions, and tenures of land, into one uniform mass, i. e. unless by acts of arbitrary power you extinguish all the laws, rights, and religious principles of the people, and force them to ac

uniformity; and on that uniformity build a system of arbitrary power.

But nothing is more false, than that despotism is the constitution of any country in Asia, that we are acquainted with. It is certainly not true of any Mahomedan constitution. But if it were, do your lordships really think, that the nation would bear, that any human creature would bear, to hear an English governor defend himself on such principles? or, if he can defend himself on such principles, is it possible to deny the conclusion, that no man in India has a security for anything, but by being totally independent of the British government? Here he has declared his opinion, that he is a despotic prince, that he is to use arbitrary power, and of course all his acts are covered with that shield. "*I know*, says he, *the constitution of Asia only from its practice.*" Will your lordships submit to hear the corrupt practices of mankind made the principles of government?—No; it will be your pride and glory to teach men intrusted with power, that, in their use of it, they are to conform to principles, and not to draw their principles from the corrupt practice of any man whatever. Was there ever heard, or could it be conceived, that a governor would dare to heap up all the evil practices, all the cruelties, oppressions, extortions, corruptions, briberies, of all the ferocious usurpers, desperate robbers, thieves, cheats, and jugglers, that ever had office from one end of Asia to another, and consolidating all this mass of the crimes and absurdities of barbarous domination into one code, establish it as the whole duty of an English governor? I believe, that till this time so audacious a thing was never attempted by man.—

He have arbitrary power! My lords, the East India company have not arbitrary power to give him; the king has no arbitrary power to give him; your lordships have not; nor the Commons; nor the whole legislature. We have no arbitrary power to give, because arbitrary power is a thing which neither any man can hold nor any man can give. No man can lawfully govern himself according to his own will, much less can one person be governed by the will of another. We are all born in subjection, all born equally, high and low, governors and governed, in subjection to one great, immutable, pre-existent law, prior to all our devices, and prior to all our contrivances, paramount to all our ideas, and all our sensations, antecedent to our very existence, by which we are knit and connected in the eternal frame of the universe, out of which we cannot stir.

This great law does not arise from our conventions or compacts; on the contrary, it gives to our conventions and com-

pacts all the force and sanction they can have;—it does not arise from our vain institutions. Every good gift is of God; all power is of God;—and He, who has given the power, and from whom alone it originates, will never suffer the exercise of it to be practised upon any less solid foundation than the power itself. If then all dominion of man over man is the effect of the divine disposition, it is bound by the eternal laws of Him that gave it, with which no human authority can dispense; neither he, that exercises it, nor even those, who are subject to it: and, if they were mad enough to make an express compact, that should release their magistrate from his duty, and should declare their lives, liberties, and properties dependent upon, not rules and laws, but his mere capricious will, that covenant would be void. The acceptor of it has not his authority increased, but he has his crime doubled. Therefore can it be imagined, if this be true, that he will suffer this great gift of government, the greatest, the best, that was ever given by God to mankind, to be the plaything and the sport of the feeble will of a man, who, by a blasphemous, absurd, and petulant usurpation, would place his own feeble, contemptible, ridiculous will in the place of the divine wisdom and justice?

The title of conquest makes no difference at all. No conquest can give such a right; for conquest, that is force, cannot convert its own injustice into a just title, by which it may rule others at its pleasure. By conquest, which is a more immediate designation of the hand of God, the conqueror succeeds to all the painful duties and subordination to the power of God, which belonged to the sovereign, whom he has displaced, just as if he had come in by the positive law of some descent, or some election. To this at least he is strictly bound—he ought to govern them, as he governs his own subjects. But every wise conqueror has gone much further than he was bound to go. It has been his ambition and his policy to reconcile the vanquished to his fortune, to show that they had gained by the change, to convert their momentary suffering into a long benefit, and to draw from the humiliation of his enemies an accession to his own glory. This has been so constant a practice, that it is to repeat the histories of all politic conquerors in all nations and in all times; and I will not so much distrust your lordships' enlightened and discriminating studies and correct memories, as to allude to one of them. I will only show you, that the court of directors, under whom he served, has adopted that idea, that they constantly inculcated it to him, and to all the servants, that they run a parallel between their own and the native government, and supposing it to be very evil did not hold it up as an example to be followed, but as an abuse to be

corrected; that they never made it a question, whether India is to be improved by English law and liberty, or English law and liberty vitiated by Indian corruption.

No, my lords, this arbitrary power is not to be had by conquest. Nor can any sovereign have it by succession, for no man can succeed to fraud, rapine, and violence; neither by compact, covenant, or submission,—for men cannot covenant themselves out of their rights and their duties; nor by any other means can arbitrary power be conveyed to any man. Those, who give to others such rights, perform acts, that are void as they are given, good indeed and valid only as tending to subject themselves, and those who act with them, to the divine displeasure; because morally there can be no such power. Those who give, and those who receive, arbitrary power, are alike criminal; and there is no man but is bound to resist it to the best of his power, wherever it shall show its face to the world. It is a crime to bear it, when it can be rationally shaken off. Nothing but absolute impotence can justify men in not resisting it to the utmost of their ability.

Law and arbitrary power are in eternal enmity. Name me a magistrate, and I will name property; name me power, and I will name protection. It is a contradiction in terms; it is blasphemy in religion; it is wickedness in politics, to say, that any man can have arbitrary power. In every patent of office the duty is included. For what else does a magistrate exist To suppose for power is an absurdity in idea. Judges are guided and governed by the eternal laws of justice, to which we are all subject. We may bite our chains if we will, but we shall be made to know ourselves, and be taught, that man is born to be governed by law; and he, that will substitute *will* in the place of it, is an enemy to God.

Despotism does not in the smallest degree abrogate, alter, or lessen any one duty of any one relation of life, or weaken the force or obligation of any one engagement or contract whatsoever. Despotism, if it means anything, that is at all defensible, means a mode of government, bound by no written rules, and coerced by no controlling magistracies, or well settled orders in the state. But if it has no written law, it neither does, nor can, cancel the primeval, indefeasible, unalterable law of nature, and of nations; and if no magistracies control its exertions, those exertions must derive their limitation and direction either from the equity and moderation of the ruler, or from downright revolt on the part of the subject by rebellion, divested of all its criminal qualities. The moment a sovereign removes the idea of security and protection from his subjects, and declares, that he is everything, and they nothing, when he

declares, that no contract he makes with them can or ought to bind him, he then declares war upon them. He is no longer sovereign; they are no longer subjects.

No man, therefore, has a right to arbitrary power. But the thought, which is suggested by the depravity of him, who brings it forward, is supported by a gross confusion of ideas and principles, which your lordships well know how to discern and separate. It is manifest, that in the eastern governments, and the western, and in all governments, the supreme power in the state cannot, whilst that state subsists, be rendered criminally responsible for its actions; otherwise it would not be the supreme power. It is certainly true; but the actions do not change their nature by losing their responsibility. The arbitrary acts, which are unpunished, are not the less vicious, though none but God, the conscience, and the opinions of mankind take cognizance of them.

It is not merely so in this or that government, but in all countries. The king in this country is undoubtedly unaccountable for his actions. The House of Lords, if it should ever exercise (God forbid I should suspect it would ever do what it has never done), but if it should ever abuse its judicial power, and give such a judgment as it ought not to give, whether from fear of popular clamor on the one hand, or predilection to the prisoner on the other; if they abuse their judgments, there is no calling them to an account for it. And so, if the Commons should abuse their power,—nay, if they should have been so greatly delinquent as not to have prosecuted this offender, they could not be accountable for it; there is no punishing them for their acts, because we exercise a part of the supreme power. But are they less criminal, less rebellious against the Divine Majesty? are they less hateful to man, whose opinions they ought to cultivate as far as they are just? No. Till society fall into a state of dissolution, they cannot be accountable for their acts. But it is from confounding the unaccountable character, inherent in the supreme power, with arbitrary power, that all this confusion of ideas has arisen.

Even upon a supposition, that arbitrary power can exist anywhere, which we deny totally, and which your lordships will be the first and proudest to deny, still absolute, supreme dominion was never conferred or delegated by you; much less, arbitrary power, which never did in any case, nor ever will in any case, time or country, produce any one of the ends of just government.

It is true, that the supreme power in every constitution of government must be absolute; and this may be corrupted into the arbitrary. But all good constitutions have established cer-

tain fixed rules for the exercise of their functions, which they rarely or ever depart from, and which rules form the security against that worst of evils, the government of will and force instead of wisdom and justice.

But though the supreme power is in a situation resembling arbitrary, yet never was there heard of in the history of the world, that is, in that mixed chaos of human wisdom and folly, such a thing as an *intermediate* arbitrary power—that is, of an officer of government, who is to exert authority over the people without any law at all, and who is to have the benefit of all laws, and all forms of law, when he is called to an account. For that is to let a wild beast (for such is a man without law) loose upon the people to prey on them at his pleasure; whilst all the laws, which ought to secure the people against the abuse of power, are employed to screen that abuse against the cries of the people.

This is *de facto* the state of our Indian government. But to establish it so in right as well as in fact, is a thing left for us to begin with,—the first of mankind.

For a subordinate, arbitrary, or even despotic power never was heard of in right, claim, or authorized practice. Least of all has it been heard of in the eastern governments, where all the instances of severity and cruelty fall upon governors, and persons intrusted with power. This would be a gross contradiction. Before Mr. Hastings none ever came before his superiors to claim it; because, if any such thing could exist, he claims the very power of that sovereign, who calls him to account.

But suppose a man to come before us, denying all the benefits of law to the people under him,—and yet, when he is called to account, to claim all the benefits of that law, which was made to screen mankind from the excesses of power: such a claim, I will venture to say, is a monster, that never existed except in the wild imagination of some theorist. It cannot be admitted, because it is a perversion of the fundamental principle, that every power, given for the protection of the people below, should be responsible to the power above. It is to suppose, that the people shall have no laws with regard to *him*, yet when *he* comes to be tried, he shall claim the protection of those laws, which were made to secure the people from his violence; that he shall claim a fair trial, an equitable hearing, every advantage of counsel (God forbid he should not have them), yet that the people under him shall have none of these advantages. The reverse is the principle of every just and rational procedure. For the people, who have nothing to use but their natural faculties, ought to be gently dealt with; but those, who are

intrusted with an artificial and instituted authority, have in their hands a great deal of the force of other people; and as their temptations to injustice are greater, so their means are infinitely more effectual for mischief by turning the powers given for the preservation of society to its destruction; so that if an arbitrary procedure be justifiable, a strong one I am sure is, it is when used against those who pretend to use it against others.

My lords, I will venture to say of the governments of Asia, that none of them ever had an arbitrary power; and, if any governments had an arbitrary power, they cannot delegate it to any persons under them; that is, they cannot so delegate it to others as not to leave them accountable, on the principles upon which it was given. As this is a contradiction in terms, a gross absurdity as well as a monstrous wickedness, let me say, for the honor of human nature, that although undoubtedly we may speak it with the pride of England, that we have better institutions for the preservation of the rights of men, than any other country in the world; yet I will venture to say, that no country has wholly meant, or ever meant, to give this power.

As it cannot exist in right on any rational and solid principles of government, so neither does it exist in the constitution of oriental governments; and I do insist upon it, that oriental governments know nothing of arbitrary power. I have taken as much pains as I could to examine into the constitutions of them. I have been endeavoring to inform myself at all times on this subject; of late, my duty has led me to a more minute inspection of them, and I do challenge the whole race of man to show me any of the oriental governors claiming to themselves a right to act by arbitrary will.

The greatest part of Asia is under Mahomedan governments. To name a Mahomedan government, is to name a government by law. It is a law enforced by stronger sanctions than any law, that can bind a Christian sovereign. Their law is believed to be given by God, and it has the double sanction of law and of religion, with which the prince is no more authorized to dispense than any one else. And, if any man will produce the Koran to me, and will but show me one text in it, that authorizes in any degree an arbitrary power in the government, I will confess, that I have read that book, and been conversant in the affairs of Asia, in vain. There is not such a syllable in it; but, on the contrary, against oppressors by name every letter of that law is fulminated. There are interpreters established throughout all Asia, to explain that law, an order of priesthood, whom they call *men of the law*. These men are conservators of the law; and, to enable them to preserve it in

its perfection, they are secured from the resentment of the sovereign, for he cannot touch them. Even their kings are not always vested with a real supreme power; but the government is in some degree republican.

To bring this point a little nearer home, since we are challenged thus, since we are led into Asia, since we are called upon to make good our charge on the principles of the governments there, rather than on those of our own country, (which I trust your lordships will oblige him finally to be governed by, puffed up as he is with the insolence of Asia,) the nearest to us of the governments he appeals to is that of the Grand Seignior, the emperor of the Turks—*He* an arbitrary power! Why he has not the supreme power of his own country. Every one knows, that the Grand Seignior is exalted high in *titles*, as our prerogative lawyers exalt an abstract sovereign, and he cannot be exalted higher in our books. I say he is destitute of the first character of sovereign power. He cannot lay a tax upon his people.

The next part, in which he misses of a sovereign power, is, that he cannot dispose of the life, of the property, or of the liberty of any of his subjects, but by what is called the *fetfa*, or sentence of the law. He cannot declare peace or war without the same sentence of the law; so much is *he*, more than European sovereigns, a subject of strict law, that he cannot declare war or peace without it. Then, if he can neither touch life or property, if he cannot lay a tax on his subjects, or declare peace or war, I leave it to your lordships' judgment, whether he can be called, according to the principles of that constitution, an arbitrary power. A Turkish sovereign, if he should be judged by the body of that law to have acted against its principles, (unless he happens to be secured by a faction of the soldiery,) is liable to be deposed on the sentence of that law, and his successor comes in under the strict limitations of the ancient law of that country: neither can he hold his place, dispose of his succession, or take any one step whatever, without being bound by law. Thus much may be said, when gentlemen talk of the affairs of Asia, as to the nearest of Asiatic sovereigns; and he is more Asiatic than European, he is a Mahomedan sovereign; and no Mahomedan is born, who can exercise any arbitrary power at all, consistently with their constitution: insomuch that this chief magistrate, who is the highest executive power among them, is the very person, who, by the constitution of the country, is the most fettered by law.

Corruption is the true cause of the loss of all the benefits of the constitution of that country. The *practice of Asia*, as the gentleman at your bar has thought fit to say, is what he holds

'o; the constitution he flies away from. The question is, whether you will take the constitution of the country as your rule, or the base practices of those usurpers, robbers, and tyrants, who have subverted it. Undoubtedly much blood, murder, false imprisonment, much peculation, cruelty and robbery are to be found in Asia; and if, instead of going to the sacred laws of the country, he chooses to resort to the iniquitous practices of it, and practices authorized only by the public tumult, contention, war, and riot, he may indeed find as clear an acquittal in the practices, as he would find condemnation in the institutions of it. He has rejected the law of England. Your lordships will not suffer it. God forbid! For my part I should have no sort of objection to let him choose his law—Mahomedan, Tartarean, Gentû. But if he disputes, as he does, the authority of an act of parliament, let him state to me that law, to which he means to be subject, or any law, which he knows, that will justify his actions. I am not authorized to say, that I shall, even in that case, give up what is not in me to give up, because I represent an authority, of which I must stand in awe; but, for myself, I shall confess, that I am brought to public shame, and am not fit to manage the great interests committed to my charge. I therefore again repeat of that Asiatic government, with which we are best acquainted, which has been constituted more in obedience to the laws of Mahomed, than any other,—that the sovereign cannot, agreeably to that constitution, exercise any arbitrary power whatever.

The next point for us to consider is, whether or no the Mahomedan constitution of India authorizes that power. The gentleman at your lordships' bar has thought proper to say, that it will be happy for India (though soon after he tells you it is a happiness they can never enjoy) "when the despotic institutes of Genghiz Khân or Tamerlane shall give place to the liberal spirit of the British legislature; and," says he, "I shall be amply satisfied in my present prosecution, if it shall tend to hasten the approach of an event so beneficial to the great interests of mankind."

My lords, you have seen what he says about an act of parliament. Do you not now think it rather an extraordinary thing, that any British subject should, in vindication of the authority which he has exercised, here quote the names and institutes, as he calls them, of fierce conquerors, of men who were the scourges of mankind, whose power was a power which they held by force only?

As to the institutes of Genghiz Khân, which he calls arbitrary institutes, I never saw them. If he has that book, he will oblige the public by producing it. I have seen a book existing,

called Yassa of Genghiz Khân; the other I never saw. If there be any part of it to justify arbitrary power, he will produce it. But, if we may judge by those ten precepts of Genghiz Khân which we have, there is not a shadow of arbitrary power to be found in any one of them. Institutes of arbitrary power! Why, if there is arbitrary power, there can be no institutes.

As to the institutes of Tamerlane; here they are in their original, and here is a translation. I have carefully read every part of these institutes; and if any one shows me one word in them, in which the prince claims in himself arbitrary power, I again repeat, that I shall for my own part confess, that I have brought myself to great shame. There is no book in the world, I believe, which contains nobler, more just, more manly, more pious principles of government than this book, called the Institutions of Tamerlane. Nor is there one word of arbitrary power in it, much less of that arbitrary power which Mr. Hastings supposes himself justified by; namely, a delegated, subordinate, arbitrary power. So far was that great prince from permitting this gross, violent, intermediate, arbitrary power, that I will venture to say, the chief thing, by which he has recommended himself to posterity, was a most direct declaration of all the wrath and indignation of the supreme government against it. But here is the book. It contains the institutes of the founder of the Mogul empire, left as a sacred legacy to his posterity, as a rule for their conduct, and as a means of preserving their power.

But it is not in this instance only, that I must do justice to the East. I assert that their morality is equal to ours, in whatever regards the duties of governors, fathers, and superiors; and I challenge the world to show, in any modern European book, more true morality and wisdom than is to be found in the writings of Asiatic men in high trust, and who have been counsellors to princes. If this be the true morality of Asia, as I affirm, and can prove, that it is, the plea founded on Mr. Hastings's geographical morality is annihilated.

I little regard the theories of travellers, where they do not relate facts, on which they are founded. I have two instances of facts, attested by Tavernier, a traveller of power and consequence, which are very material to be mentioned here, because they show, that, in some of the instances recorded, in which the princes of the country have used any of those cruel and barbarous executions, which make us execrate them, it has been upon governors who have abused their trust, and that this very oriental authority, to which Mr. Hastings appeals, would have condemned him to a dreadful punishment. I thank God, and I say it from my heart, that even for his enormous

offences there neither is, nor can be, anything like such punishments. God forbid, that we should not as much detest out of the way, mad, furious, and unequal punishments, as we detest enormous and abominable crimes; because a severe and cruel penalty for a crime of a light nature is as bad and iniquitous as the crime which it pretends to punish. As the instances I allude to are curious, and as they go to the principles of Mr. Hastings's defence, I shall beg to quote them.

The first is upon a governor, who did, what Mr. Hastings says he has a power delegated to him to do; he levied a tax without the consent of his master. "Some years after my departure from Com, (says *Tavernier*,) the governor had, of his own accord, and without any communication with the king, laid a small impost upon every pannier of fruit brought into the city, for the purpose of making some necessary reparations in the walls and bridges of the town. It was towards the end of the year 1632, that the event, I am going to relate, happened. The king being informed of the impost, which the governor had laid upon the fruit, ordered him to be brought in chains to court. The king ordered him to be exposed to the people at one of the gates of the palace: then he commanded the son to pluck off the mustachios of his father, to cut off his nose and ears, to put out his eyes, and then cut off his head. The king then told the son to go and take possession of the government of his father, saying, *See that you govern better than this deceased dog, or thy doom shall be a death more exquisitely tormenting.*"

My lords, you are struck with horror, I am struck with horror, at this punishment. I do not relate it to approve of such a barbarous act; but to prove to your lordships, that whatever power the princes of that country have, they are jealous of it to such a degree, that, if any of their governors should levy a tax, even the most insignificant, and for the best purposes, he meets with a cruel punishment. I do not justify the punishment; but the severity of it shows, how little of their power the princes of that country mean to delegate to their servants, the whole of which the gentleman at your bar says was delegated to him.

There is another case, a very strong one, and that is the case of presents, which I understand is a custom admitted throughout Asia in all their governments. It was of a person, who was raised to a high office; no business was suffered to come before him without a previous present. "One morning, the king being at this time on a hunting party, the nazar came to the tent of the king, but was denied entrance by the *meter*, or master of the wardrobe. About the same time the king came forth, and, seeing the nazar, commanded his officers to

take off the bonnet from the head of that dog, that took gifts from his people; and that he should sit three days bareheaded in the heat of the sun, and as many nights in the air. Afterwards he caused him to be chained about the neck and arms, and condemned him to perpetual imprisonment, with a mamoudy a day for his maintenance; but he died for grief within eight days after he was put in prison."

Do I mean, by reading this to your lordships, to express or intimate an approbation, either of the cruelty of the punishment, or of the coarse barbarism of the language? Neither one nor the other. I produce it to your lordships to prove to you from this dreadful example the horror which that government felt, when any person subject to it assumed to himself a privilege to receive presents. The cruelty and severity exercised by these princes is not levelled at the poor, unfortunate people, who complain at their gates, but, to use their own barbarous expression, *to dogs, that impose taxes, and take presents.*—God forbid, I should use that language. The people, when they complain, are not called dogs and sent away, but the governors, who do these things against the people; they are called dogs, and treated in that cruel manner. I quote them to show, that no governors in the East, upon any principle of their constitution, or any good practice of their government, can lay arbitrary imposts, or receive presents. When they escape, it is probably by bribery, by corruption, by creating factions for themselves in the seraglio, in the country, in the army, in the divan. But how they escape such punishments, is not my business to inquire; it is enough for me, that the constitution disavows them, that the princes of the country disavow them; that they revile them with the most horrible expressions, and inflict dreadful punishments on them, when they are called to answer for these offences.

Thus much concerning the Mahomedan laws of Asia. That the people of Asia have no laws, rights, or liberty, is a doctrine, that wickedly is to be disseminated through this country. But I again assert, every Mahomedan government is, by its principles, a government of law.

I shall now state from what is known of the government of India, that it does not, and cannot delegate (as Mr. Hastings has frequently declared) the whole of its powers and authority to him. If they are absolute, as they must be in the supreme power, they ought to be arbitrary in none; they were, however, never absolute in any of their subordinate parts, and I will prove it by the known provincial constitutions of Hindostan, which are all Mahomedan, the laws of which are as clear, as explicit, and as learned as ours.

The first foundation of their law is the Khorân. The next part is the *fetfa*, or adjudged cases by proper authority, well known there. The next, the written interpretations of the principles of jurisprudence; and their books are as numerous upon the principles of jurisprudence, as in any country in Europe. The next part of their law is what they call the *kanon*, that is, a positive rule equivalent to acts of parliament, the law of the several powers of the country, taken from the Greek word ΚΑΝΩΝ, which was brought into their country, and is well known. The next is the *rage ul mulk*, or common law and custom of the kingdom, equivalent to our common law. Therefore they have laws from more sources than we have, exactly in the same order, grounded upon the same authority, fundamentally fixed to be administered to the people upon these principles.

The next thing is to show, that in India there is a partition of the powers of the government, which proves that there is no absolute power delegated.

In every province the first person is the soubahdar or nazim, or viceroy: he has the power of the sword, and the administration of criminal justice only. Then there is the dewan, or high steward; he has the revenue, and all exchequer causes, under him, to be governed according to the law, and custom, and institutions of the kingdom.

The law of inheritances, successions, and everything that relates to them, is under the câdi, in whose court these matters are tried. But this too was subdivided. The câdi could not judge, but by the advice of his assessors. Properly in the Mahomedan law there is no appeal, only a removal of the cause; but when there is no judgment, as none can be, when the court is not unanimous, it goes to the general assembly of all the men of the law.

There are, I will venture to say, other divisions and subdivisions; for there are the kanongoes, who hold their places for life, to be the conservators of the canons, customs, and good usages of the country; all these, as well as the câdi and the mufti, hold their places and situations, not during the wanton pleasure of the prince, but, on permanent and fixed terms, for life. All these powers of magistracy, revenue, and law, are all different, consequently not delegated in the whole to any one person. This is the provincial constitution, and these the laws, of Bengal, which proves, if there were no other proof, by the division of the functions and authorities, that the supreme power of the state in the Mogul empire did, by no means, delegate to any of its officers the supreme power in its fullness. Whether or no we have delegated to Mr. Hastings

the supreme power of king and parliament, that he should act with the plenitude of authority of the British legislature, you are to judge.

Mr. Hastings has no refuge here. Let him run from law to law; let him fly from the common law, and the sacred institutions of the country, in which he was born; let him fly from acts of parliament, from which his power originated; let him plead his ignorance of them, or fly in the face of them. Will he fly to the Mahomedan law?—that condemns him. Will he fly to the high magistracy of Asia to defend taking of presents? Pad Shâ and the sultan would condemn him to a cruel death. Will he fly to the sophis, to the laws of Persia, or to the practice of those monarchs? I cannot utter the pains, the tortures, that would be inflicted on him, if he were to govern there, as he has done in a British province! Let him fly where he will, from law to law;—law (I thank God) meets him everywhere, and enforced too by the practice of the most impious tyrants, which he quotes as if it would justify his conduct. I would as willingly have him tried by the law of the Khorân, or the institutes of Tamerlane, as on the common law, or statute law, of this kingdom.

The next question is, whether the Gentû laws justify arbitrary power; and, if he finds any sanctuary there, let him take it, with the cow, in the pagoda. The Gentûs have a law, which positively proscribes in magistrates any idea of will;—a law, with which, or rather with extracts of it, that gentleman himself has furnished us. These people, in many points, are governed by their own ancient written law, called the *shaster*. Its interpreters and judges are the *pundits*. This law is comprehensive, extending to all the concerns of life, affording principles and maxims, and legal theories, applicable to all cases, drawn from the sources of natural equity, modified by their institutions, full of refinement and subtilty of distinction, equal to that of any other law, and has the grand test of all law, that, wherever it has prevailed, the country has been populous, flourishing, and happy.

Upon the whole, then, follow him where you will,—let him have eastern or western law, you find everywhere arbitrary power and peculation of governors proscribed and horribly punished:—more so than I should ever wish to punish any, the most guilty, human creature. And if this be the case, as I hope and trust it has been proved to your lordships, that there is law in these countries, that there is no delegation of power, which exempts a governor from the law, then I say at any rate a British governor is to answer for his conduct, and cannot be justified by wicked examples and profligate practices.

But another thing, which he says, is, that he was left to himself to govern himself by his own practice; that is to say, when he had taken one bribe, he might take another;—when he had robbed one man of his property, he might rob another; when he had imprisoned one man arbitrarily, and extorted money from him, he might do so by another. He resorts at first to the practice of barbarians and usurpers; at last he comes to his own. Now, if your lordships will try him by such maxims and principles, he is certainly clear; for there is no matter of doubt, that there is nothing he has practised once, which he has not practised again; and then the repetition of crimes becomes the means of his indemnity.

The next pleas he urges are not so much in bar of the impeachment, as in extenuation. The first are to be laid by as claims to be made on motion for arrest of judgment, the others as an extenuation or mitigation of his fine. He says, and with a kind of triumph, the ministry of this country have great legal assistance; commercial lights of the greatest commercial city in the world; the greatest generals and officers to guide and direct them in military affairs: whereas I, poor man, was sent almost a school-boy from England, or at least little better;—sent to find my way in that new world as well as I could. I had no men of the law, no legal assistance, to supply my deficiencies. At *Sphingem habebas domi.* Had he not the chief justice, the tamed and domesticated chief justice, who waited on him like a familiar spirit, whom he takes from province to province, his amanuensis at home, his postilion, and riding express abroad?

Such a declaration would in some measure suit persons who had acted much otherwise than Mr. Hastings. When a man pleads ignorance in justification of his conduct, it ought to be an humble, modest, unpresuming ignorance;—an ignorance, which may have made him lax and timid in the exercise of his duty;—but an assuming, rash, presumptuous, confident, daring, desperate, and disobedient ignorance, heightens every crime that it accompanies. Mr. Hastings, if through ignorance he left some of the company's orders unexecuted, because he did not understand them, might well say, *I was an ignorant man, and these things were above my capacity.* But when he understands them, and when he declares he will not obey them positively and dogmatically;—when he says, as he has said, and we shall prove it, *that he never succeeds better than when he acts in an utter defiance of those orders,* and sets at naught the laws of his country; I believe this will not be thought the language of an ignorant man. But I beg your lordships' pardon; it is the language of an ignorant man; for no man, who was not

full of a bold, determined, profligate ignorance, could ever think of such a system of defence. He quitted Westminster school almost a boy. We have reason to regret, that he did not finish his education in that noble seminary, which has given so many luminaries to the church, and ornaments to the state. Greatly it is to be lamented, that he did not go to those universities, [where arbitrary power will I hope never be heard of; but the true principles of religion, of liberty, and law, will ever be inculcated,] instead of studying in the school of Cossim Ally Cawn.

If he had lived with us, he would have quoted the examples of Cicero in his government; he would have quoted several of the sacred and holy prophets, and made *them* his example. His want of learning, profane as well as sacred, reduces him to the necessity of appealing to every name and authority of barbarism, tyranny, and usurpation, that are to be found; and from these, he says, *from the practice of one part of Asia, or other, I have taken my rule.* But your lordships will show him, that in Asia, as well as in Europe, the same law of nations prevails; the same principles are continually resorted to; and the same maxims sacredly held and strenuously maintained; and, however disobeyed, no man suffers from the breach of them, who does not know how and where to complain of that breach;—that Asia is enlightened in that respect as well as Europe; but, if it were totally blinded, that England would send out governors to teach them better; and that he must justify himself to the piety, the truth, the faith of England; and not by having recourse to the crimes and criminals of other countries, to the barbarous tyranny of Asia, or any other part of the world.

I will go further with Mr. Hastings, and admit, that, if there be a boy in the fourth form of Westminster school, or any school in England, who does not know, when these articles are read to him, that he has been guilty of gross and enormous crimes, he may have the shelter of his present plea, as far as it will serve him. There are none of us, thank God, so uninstructed, who have learned our catechisms or the first elements of Christianity, who does not know, that such conduct is not to be justified, and least of all by examples.

There is another topic he takes up more seriously, and as a general rebutter to the charge;—says he, "After a great many of these practices, with which I am charged, parliament appointed me to my trust, and consequently has acquitted me." Has it, my lords? I am bold to say, that the Commons are wholly guiltless of this charge. I will admit, if parliament on a full state of his offences before them, and full examination of those offences, had appointed him to the government that then

the people of India and England would have just reason to exclaim against so flagitious a proceeding. A sense of propriety and decorum might have restrained us from prosecuting. They might have been restrained by some sort of decorum from pursuing him criminally. But the Commons stand before your lordships without shame. First, in their name we solemnly assure your lordships, that we had not in our parliamentary capacity, (and most of us—myself, I can say surely—heard very little, and that in confused rumors,) the slightest knowledge of any one of the acts charged upon this criminal at either of the times of his being appointed to office; and that we were not guilty of the nefarious act of collusion and flagitious breach of trust, with which he presumes obliquely to charge us; but from the moment we knew them, we never ceased to condemn them by reports, by votes, by resolutions; and that we admonished and declared it to be the duty of the court of directors to take measures for his recall; and when frustrated in the way known to that court, we then proceeded to an inquiry. Your lordships know, whether you were better informed. We are, therefore, neither guilty of the precedent crime of colluding with the criminal, nor the subsequent indecorum of prosecuting what we had virtually and practically approved.

Secondly; several of his worst crimes have been committed since the last parliamentary renewal of his trust, as appears by the dates in the charge.

But I believe, my lords, the judges—judges to others, grave and weighty counsellors, and assistants to your lordships, will not on reference assert to your lordships, which God forbid, and we cannot conceive, or hardly state in argument, if but for argument, that if one of the judges had received bribes before his appointment to a higher judiciary office, he would not still be open to prosecution.

So far from admitting it as a plea in bar, we charge, and we hope your lordships will find it an extreme aggravation of his offences, that no favors heaped upon him could make him grateful, no renewed and repeated trusts could make him faithful and honest.

We have now gone through most of the general topics.

But,—he is not responsible, as being thanked by the court of directors. He has had the thanks and approbation of the India company for his services. We know too well here, I trust the world knows,—and you will always assert, that a pardon from the crown is not pleadable here, that it cannot bar the impeachment of the Commons; much less a pardon of the East India company, though it may involve them in guilt, which might induce us to punish them for such a pardon. If any corporation

by collusion with criminals refuse to do their duty in coercing them, the magistrates are answerable.

It is the use, virtue, and efficacy of parliamentary judicial procedure, that it puts an end to this dominion of faction, intrigue, cabal, and clandestine intelligences. The acts of men are put to their proper test, and the works of darkness tried in the face of day—not the corrupted opinions of others on them, but their own intrinsic merits. We charge it as his crime, that he bribed the court of directors to thank him for what they had condemned as breaches of his duty.

The East India company, it is true, have thanked him. They ought not to have done it; and it is a reflection upon their character, that they did it. But the directors praise him in the gross, after having condemned each act in detail. His actions are *all*, every one, censured one by one, as they arise. I do not recollect any one transaction, few there are, I am sure, in the whole body of that succession of crimes now brought before you for your judgment, in which the India company have not censured him. Nay, in one instance he pleads their censure in bar of this trial; for he says, "In that censure I have already received my punishment." If, for any other reasons, they come and say, "We thank you, Sir, for all your services:" to that I answer, Yes; and *I* would thank him for his services too, if I knew them. But *I* do not;—perhaps *they* do. Let them thank him for those services. I am ordered to prosecute him for these crimes. Here therefore we are on a balance with the India company; and your lordships may perhaps think it some addition to his crimes, that he has found means to obtain the thanks of the India company for the whole of his conduct, at the same time that their records are full of constant, uniform, particular censure and reprobation of every one of those acts, for which he now stands accused.

He says, there is the testimony of Indian princes in his favor. But do we not know how seals are obtained in that country? do we not know, how those princes are imposed upon? do we not know the subjection and thraldom, in which they are held, and that they are obliged to return thanks for the sufferings which they have felt? I believe your lordships will think, that there is not, with regard to some of these princes, a more dreadful thing, that can be said of them, than that he has obtained their thanks.

I understand he has obtained the thanks of the miserable princesses of Oude, whom he has cruelly imprisoned, whose treasure he has seized, and whose eunuchs he has tortured.

They thank him for going away. They thank him for leaving them the smallest trifle of their subsistence; and I ven-

ture to say, if he wanted a hundred more panegyrics, provided he never came again among them, he might have them. I understand, that Mahdajee Scindia has made his panegyric too. Mahdajee Scindia has not made his panegyric for nothing; for, if your lordships will suffer him to enter into such a justification, we shall prove, that he has sacrificed the dignity of this country, and the interests of all its allies, to that prince. We appear here neither with panegyric, nor with satire; it is for substantial crimes we bring him before you, and amongst others for cruelly using persons of the highest rank and consideration in India; and, when we prove he has cruelly injured them, you will think the panegyrics either gross forgeries, or most miserable aggravations of his offences, since they show the abject and dreadful state, into which he has driven those people. For, let it be proved, that I have cruelly robbed and maltreated any persons, if I produce a certificate from them of my good behavior, would it not be a corroborative proof of the terror, into which those persons are thrown by my misconduct?

My lords, these are, I believe, the general grounds of our charge—I have now closed completely, and I hope, to your .ordship's satisfaction, the whole body of history, of which I wished to put your lordships in possession. I do not mean, that many of your lordships may not have known it more perfectly by your own previous inquiries; but bringing to your remembrance the state of the circumstances of the persons, with whom he acted, the persons and power he has abused,—I have gone to the principles he maintains, the precedents he quotes, the laws and authorities which he refuses to abide by, and those on which he relies; and at last I have refuted all those pleas in bar, on which he depends, and for the effect of which he presumes on the indulgence and patience of this country, or on the corruption of some persons in it. And here I close what I had to say upon this subject; wishing and hoping, that, when I open before your lordships the case more particularly, so as to state rather a plan of the proceeding, than the direct proof of the crimes, your lordships will hear me with the same goodness and indulgence I have hitherto experienced; that you will consider, if I have detained you long it was not with a view of exhausting my own strength, or putting your patience to too severe a trial; but from the sense I feel, that it is the most difficult and the most complicated cause, that was ever brought before any human tribunal.

SPEECH OF MR. BURKE,

ON THE IMPEACHMENT OF WARREN HASTINGS, ESQ., ON OPENING THE CHARGE OF BRIBERY, FEBRUARY 18 AND 19, 1788.

My Lords,

The gentlemen who are appointed by the Commons to manage this prosecution, have directed me to inform your lordships, that they have very carefully and attentively weighed the magnitude of the subject, which they bring before you, with the time, which the nature and circumstances of affairs allows for their conducting it.

My lords, on that comparison they are very apprehensive, that, if I should go very largely into a preliminary explanation of the several matters in charge, it might be to the prejudice of an early trial of the substantial merits of each article. We have weighed and considered this maturely. We have compared exactly the time with the matter, and we have found, that we are obliged to do, as all men must do, who would manage their affairs practicably, to make our opinion, of what might be most advantageous to the business, conform to the time that is left to perform it in. We must, as all men must, submit affairs to time, and not think of making time conform to our wishes: and therefore, my lords, I very willingly fall in with the inclinations of the gentlemen, with whom I have the honor to act, to come as soon as possible to close fighting, and to grapple immediately and directly with the corruptions of India; to bring before your lordships the direct articles; to apply the evidence to the articles, and to bring the matter forward for your lordships' decision in that manner, which the confidence we have in the justice of our cause demands from the Commons of Great Britain.

My lords, these are the opinions of those with whom I have the honor to act, and in their opinions I readily acquiesce. For I am far from wishing to waste any of your lordships' time upon any matter merely through any opinion I have of the nature of the business, when at the same time I find, that in the opinion of others it might militate against the production of its full, proper, and (if I may so say) its immediate effect.

It was my design to class the crimes of the late governor of Bengal—to show their mutual bearings—how they were mutually aided, and grew and were formed out of each other. I

proposed first of all to show your lordships, that they have their root in that, which is the origin of all evil, avarice and rapacity—to show how that led to prodigality of the public money—and how prodigality of the public money, by wasting the treasures of the East India company, furnished an excuse to the governor-general to break its faith, to violate all its most solemn engagements, and to fall with a hand of stern, ferocious, and unrelenting rapacity upon all the allies and dependencies of the company. But I shall be obliged in some measure to abridge this plan; and as your lordships already possess, from what I had the honor to state on Saturday, a general view of this matter, you will be in a condition to pursue it when the several articles are presented.

My lords, I have to state to-day the root of all these misdemeanors—namely, the pecuniary corruption and avarice which gave rise and primary motion to all the rest of the delinquencies, charged to be committed by the governor-general.

My lords, pecuniary corruption forms not only, as your lordships will observe in the charges before you, an article of charge by itself, but likewise so intermixes with the whole, that it is necessary to give, in the best manner I am able, a history of that corrupt system, which brought on all the subsequent acts of corruption. I will venture to say, there is no one act, in which tyranny, malice, cruelty, and oppression can be charged, that does not at the same time carry evident marks of pecuniary corruption.

I stated to your lordships on Saturday last, the principles upon which Mr. Hastings governed his conduct in India, and upon which he grounds his defence. These may all be reduced to one short word, *arbitrary power*. My lords, if Mr. Hastings had contended, as other men have often done, that the system of government, which he patronizes, and on which he acted, was a system tending on the whole to the blessing and benefit of mankind, possibly something might be said for him for setting up so wild, absurd, irrational, and wicked a system. Something might be said to qualify the act from the intention; but it is singular in this man, that, at the time he tells you he acted on the principles of arbitrary power, he takes care to inform you, that he was not blind to the consequences Mr. Hastings foresaw that the consequence of this system was corruption. An arbitrary system indeed must always be a corrupt one. My lords, there never was a man who thought he had no law but his own will, who did not soon find that he had no end but his own profit. Corruption and arbitrary power are of natural unequivocal generation, necessarily producing one another. Mr. Hastings foresees the abusive and corrupt con

sequences, and then he justifies his conduct upon the necessities of that system. These are things which are new in the world; for there never was a man, I believe, who contended for arbitrary power (and there have been persons wicked and foolish enough to contend for it) that did not pretend, either that the system was good in itself, or that by their conduct they had mitigated or had purified it; and that the poison by passing through their constitution had acquired salutary properties. But if you look at his defence before the House of Commons, you will see, that that very system, upon which he governed, and under which he now justifies his actions, did appear to himself a system pregnant with a thousand evils and a thousand mischiefs.

The next thing, that is remarkable and singular in the principles, upon which the governor-general acted, is, that when he is engaged in a vicious system, which clearly leads to evil consequences, he thinks himself bound to realize all the evil consequences involved in that system. All other men have taken a directly contrary course; they have said, I have been engaged in an evil system, that led indeed to mischievous consequences, but I have taken care by my own virtues to prevent the evils of the system, under which I acted.

We say then, not only that he governed arbitrarily, but corruptly, that is to say, that he was a giver and receiver of bribes, and formed a system for the purpose of giving and receiving them. We wish your lordships distinctly to consider, that he did not only give and receive bribes accidentally, as it happened without any system and design, merely as the opportunity or momentary temptation of profit urged him to it, but that he has formed plans and systems of government for the very purpose of accumulating bribes and presents to himself. This system of Mr. Hastings's government is such a one, I believe, as the British nation in particular will disown; for I will venture to say, that, if there is any one thing, which distinguishes this nation eminently above another, it is, that in its offices at home, both judicial and in the state, there is less suspicion of pecuniary corruption attaching to them, than to any similar offices in any part of the globe, or that have existed at any time; so that he, who would set up a system of corruption, and attempt to justify it upon the principle of utility, that man is staining not only the nature and character of office, but that, which is the peculiar glory of the official and judicial character of this country; and therefore in this house, which is eminently the guardian of the purity of all the offices of this kingdom, he ought to be called eminently and peculiarly to account. There are many things undoubtedly in crimes, which make them frightful and odious:

but bribery, filthy hands, a chief governor of a great empire receiving bribes from poor miserable indigent people, this is what makes government itself base, contemptible and odious in the eyes of mankind.

My lords, it is certain, that even tyranny itself may find some specious color, and appear as more severe and rigid execution of justice. Religious persecution may shield itself under the guise of a mistaken and over-zealous piety. Conquest may cover its baldness with its own laurels, and the ambition of the conqueror may be hid in the secrets of his own heart under a veil of benevolence, and make him imagine he is bringing temporary desolation upon a country, only to promote its ultimate advantage and his own glory. But in the principles of that governor, who makes nothing but money his object, there can be nothing of this. There are here none of those specious delusions, that look like virtues, to veil either the governed or the governor. If you look at Mr. Hastings's merits, as he calls them, what are they? Did he improve the internal state of the government by great reforms? No such thing: or by a wise and incorrupt administration of justice? No.—Has he enlarged the boundary of our government? No; there are but too strong proofs of his lessening it. But his pretensions to merit are, that he squeezed more money out of the inhabitants of the country than other persons could have done—money got by oppression, violence, extortion from the poor, or the heavy hand of power upon the rich and great.

These are his merits. What we charge as his demerits are all of the same nature; for though there is undoubtedly oppression, breach of faith, cruelty, perfidy, charged upon him, yet the great ruling principle of the whole, and that, from which you can never have an act free, is money—it is the vice of base avarice, which never is, nor ever appears even to the prejudices of mankind to be, anything like a virtue. Our desire of acquiring sovereignty in India undoubtedly originated first in ideas of safety and necessity; its next step was a step of ambition. That ambition, as generally happens in conquest, was followed by gains of money; but afterwards there was no mixture at all; it was, during Mr. Hastings's time, altogether a business of money. If he has extirpated a nation, I will not say whether properly or improperly, it is because (says he) you have all the benefit of conquest without expense, you have go a large sum of money from the people, and you may leave them to be governed by whom, and as they will. This is directly contrary to the principles of conquerors. If he has at any time taken any money from the dependencies of the company, he does not pretend, that it was obtained from their zea'

and affection to our cause, or that it made their submission more complete; very far from it. He says, they ought to be independent, and all, that you have to do, is to squeeze money from them. In short, money is the beginning, the middle, and the end of every kind of act done by Mr. Hastings—pretendedly for the company, but really for himself.

Having said so much about the origin, the first principl both of that, which he makes his merit, and which we charge as his demerit; the next step is, that I should lay open to you lordships, as clearly as I can, what the sense of his employers the East India company, and what the sense of the legislature itself has been upon those merits and demerits of money.

My lords, the company, knowing that these money transactions were likely to subvert that empire, which was first established upon them, did, in the year 1765, send out a body of the strongest and most solemn covenants to their servants, that they should take no presents from the country powers under any name or description, except those things, which were publicly and openly taken for the use of the company, namely, *territories* or *sums of money*, which might be obtained by treaty They distinguished such presents, as were taken from any persons privately and unknown to them, and without their authority, from subsidies; and that this is the true nature and construction of their order, I shall contend, and explain afterwards to your lordships. They have said, nothing shall be taken for their private use; for though in that and in every state there may be subsidiary treaties, by which sums of money may be received, yet they forbid their servants, their governors, whatever application they might pretend to make of them, to receive, under any other name or pretence, more than a certain marked simple sum of money, and this not without the consent and permission of the presidency, to which they belong. This is the substance, the principle, and the spirit of the covenants, and will show your lordships how radicated an evil this of bribery and presents was judged to be.

When these covenants arrived in India, the servants refused at first to execute them; and suspended the execution of them, till they had enriched themselves with presents. Eleven months elapsed, and it was not till Lord Clive reached the place of his destination, that the covenants were executed; and they were not executed then without some degree of force. Soon afterwards the treaty was made with the country powers, by which Shuja ul Dowla was re-established in the province of Oude, and paid a sum of 500,000*l.* to the company for it. It was a public payment, and there was not a suspicion, that a single shilling of private emolument attended it. But whether Mr. Hastings

had the example of others or not, their example could not justify his briberies. He was sent there to put an end to all those examples. The company did expressly vest him with that power. They declared at that time, that the whole of their service was totally corrupted by bribes and presents, and by extravagance and luxury, which partly gave rise to them; and these in their turn enabled them to pursue those excesses. They not only reposed trust in the integrity of Mr. Hastings, but reposed trust in his remarkable frugality and order in his affairs, which they considered as things that distinguished his character. But in his defence we have him quite in another character, no longer the frugal attentive servant bred to business, bred to book-keeping, as all the company's servants are; he now knows nothing of his own affairs, knows not whether he is rich or poor, knows not what he has in the world. Nay, people are brought forward to say, that they know better than he does what his affairs are. He is not like a careful man bred in a counting-house, and by the directors put into an office of the highest trust on account of the regularity of his affairs; he is like one buried in the contemplation of the stars, and knows nothing of the things in this world. It was then on account of an idea of his great integrity, that the company put him into this situation. Since that he has thought proper to justify himself, not by clearing himself of receiving bribes, but by saying, that no bad consequences resulted from it, and that, if any such evil consequences did arise from it, they arose rather from his inattention to money than from his desire of acquiring it.

I have stated to your lordships the nature of the covenants, which the East India company sent out. Afterwards, when they found their servants had refused to execute these covenants, they not only very severely reprehended even a moment's delay in their execution, and threatened the exacting the most strict and rigorous performance of them, but they sent a commission to enforce the observance of them more strongly; and that commission had it specially in charge never to receive presents. They never sent out a person to India without recognizing the grievance, and without ordering, that presents should not be received, as the main fundamental part of their duty, and upon which all the rest depended, as it certainly must: for persons at the head of government should not encourage that by example, which they ought by precept, authority and force, to restrain in all below them. That commission failing, another commission was preparing to be sent out with the same instructions, when an act of parliament took it up: and that act, which gave Mr Hastings power, did

mould in the very first stamina of his power this principle, in words the most clear and forcible, that an act of parliament could possibly devise upon the subject. And that act was made not only upon a general knowledge of the grievance, but your lordships will see in the reports of that time, that parliament had directly in view before them the whole of that monstrous head of corruption under the name of presents, and all the monstrous consequences, that followed it.

Now, my lords, every office of trust, in its very nature, forbids the receipt of bribes. But Mr. Hastings was forbidden it, first, by his official situation; next by covenant; and lastly by act of parliament—that is to say, by all the things, that bind mankind, or that can bind them,—first, moral obligation inherent in the duty of their office; next, the positive injunctions of the legislature of the country; and lastly, a man's own private, particular, voluntary act and covenant. These three, the great and only obligations that bind mankind, all united in the focus of this single point—that they should take no presents.

I am to mark to your lordships, that this law and this covenant did consider indirect ways of taking presents—taking them by others, and such like,—directly in the very same light as they considered taking them by themselves. It is perhaps a much more dangerous way, because it adds to the crime a false prevaricating mode of concealing it, and makes it much more mischievous by admitting others into the participation of it Mr. Hastings has said, and it is one of the general complaints of Mr. Hastings, that he is made answerable for the acts of other men. It is a thing inherent in the nature of his situation. All those, who enjoy a great superintending trust, which is to regulate the whole affairs of an empire, are responsible for the acts and conduct of other men, so far as they had anything to do with appointing them, or holding them in their places, or having any sort of inspection into their conduct.

But when a governor presumes to remove from their situations those persons, whom the public authority and sanction of the company have appointed, and obtrudes upon them by violence other persons, superseding the orders of his masters, he becomes doubly responsible for their conduct. If the persons he names should be of notorious evil character and evil principles, and if this should be perfectly known to himself, and of public notoriety to the rest of the world, then another strong responsibility attaches on him for the acts of those persons.

Governors, we know very well, cannot with their own hands be continually receiving bribes; for then they must have as many hands, as one of the idols in an Indian temple, in order to receive all the bribes, which a governor-general may re-

ceive; but they have them vicariously. As there are many offices, so he has had various officers, for receiving and distributing his bribes; he has had a great many, some white and some black, agents. The white men are loose and licentious; they are apt to have resentments, and to be bold in revenging them. The black men are very secret and mysterious; they are not apt to have very quick resentments, they have not the same liberty and boldness of language, which characterize Europeans; and they have fears too for themselves, which makes it more likely, that they will conceal anything committed to them by Europeans. Therefore Mr. Hastings had his black agents, not one, two, three, but many, disseminated through the country; no two of them hardly appear to be in the secret of any one bribe. He has had likewise his white agents—they were necessary—a Mr. Larkins and a Mr. Crofts. Mr. Crofts was sub-treasurer, and Mr. Larkins accountant-general. These were the last persons of all others, that should have had any thing to do with bribes; yet these were some of his agents in bribery. There are few instances in comparison of the whole number of bribes, but there are some, where two men are in the secret of the same bribe. Nay, it appears, that there was one bribe divided into different payments at different times—that one part was committed to one black secretary—another part to another black secretary. So that it is almost impossible to make up a complete body of all his bribery: you may find the scattered limbs, some here, and others there; and while you are employed in picking them up, he may escape entirely in a prosecution for the whole.

The first act of his government in Bengal was the most bold and extraordinary, that I believe ever entered into the head of any man, I will say, of any tyrant. It was no more or less than a general (almost exceptless) confiscation, in time of profound peace, of all the landed property in Bengal, upon most extraordinary pretences. Strange as this may appear, he did so confiscate it; he put it up to a pretended public, in reality to a private, corrupt auction; and such favored landholders, as came to it, were obliged to consider themselves as not any longer proprietors of the estates, but to recognize themselves as farmers under government: and even those few, that were permitted to remain on their estates, had their payments raised at his arbitrary discretion; and the rest of the lands were given to farmers general, appointed by him and his committee, at a price fixed by the same arbitrary discretion.

It is necessary to inform your lordships, that the revenues of Bengal are for the most part territorial revenues, great quit-rents issuing out of lands. I shall say nothing either of the

nature of this property, of the rights of the people to it, or of the mode of exacting the rents, till that great question of revenues, one of the greatest which we shall have to lay before you, shall be brought before your lordships particularly and specially as an article of charge. I only mention it now as an exemplification of the great principle of corruption, which guided Mr. Hastings's conduct.

When the ancient nobility, the great princes (for such I may call them) a nobility, perhaps, as ancient as that of your lordships (and a more truly noble body never existed in that character;) my lords, when all the nobility, some of whom have borne the rank and port of princes, all the gentry, all the freeholders of the country, had their estates in that manner confiscated, that is, either given to themselves to hold on the footing of farmers, or totally confiscated; when such an act of tyranny was done, no doubt, some good was pretended. This confiscation was made by Mr. Hastings, and the lands let to these farmers for five years, upon an idea, which always accompanies his acts of oppression, the idea of *moneyed merit*. He adopted this mode of confiscating the estates, and letting them to farmers, for the avowed purpose of seeing how much it was possible to take out of them. Accordingly he set them up to this wild and wicked auction, as it would have been, if it had been a real one—corrupt and treacherous, as it was. He set these lands up for the purpose of making that discovery, and pretended, that the discovery would yield a most amazing increase of rent. And for some time it appeared so to do, till it came to the touchstone of experience; and then it was found, that there was a defalcation from these monstrous raised revenues, which were to cancel in the minds of the directors the wickedness of so atrocious, flagitious, and horrid an act of treachery. At the end of five years, what do you think was the failure?—No less than 2,050,000*l*. Then a new source of corruption was opened, that is, how to deal with the balances: for every man, who had engaged in these transactions, was a debtor to government, and the remission of that debt depended upon the discretion of the governor general. Then the persons, who were to settle the composition of that immense debt, who were to see how much was recoverable, and how much not, were able to favor, or to exact to the last shilling; and there never existed a doubt, but that, not only upon the original cruel exaction, but upon the remission afterwards, immense gains were derived. This will account for the manner, in which those stupendous fortunes, which astonish the world, have been made. They have been made—first, by a tyrannous exaction from the people, who were suffered to remain in possession of

their own land as farmers, then by selling the rest to farmers at rents and under hopes, which could never be realized, and then getting money for the relaxation of their debts. But whatever excuse, and however wicked, there might have been for this wicked act, namely, that it carried upon the face of it some sort of appearance of public good, that is to say, that sort of public good, which Mr. Hastings so often professed, of ruining the country for the benefit of the company; yet, in fact, this business of balances is that *nidus*, in which have been nestled and bred and born all the corruptions of India;—first, by making extravagant demands, and afterwards by making corrupt relaxations of them.

Besides this monstrous failure in consequence of a miserable exaction, by which more was attempted to be forced from the country than it was capable of yielding, and this by way of experiment, when your lordships come to inquire who the farmers-general of the revenue were, you would naturally expect to find them to be the men in the several countries, who had the most interest, the greatest wealth, the best knowledge of the revenue and resources of the country, in which they lived. These would be thought the natural proper farmers-general of each district. No such thing, my lords. They are found in the body of people, whom I have mentioned to your lordships. They were almost all let to Calcutta banyans. Calcutta banyans were the farmers of almost the whole. They sub-delegated to others, who sometimes had sub-delegates under them *ad infinitum*. The whole formed a system together through the succession of black tyrants scattered through the country, in which you at last find the European at the end, sometimes indeed not hid very deep, not above one between him and the farmer, namely, his banyan directly, or some other black person to represent him. But some have so managed the affair, that when you inquire who the farmer is—Was such a one farmer?—No. Cantoo Baboo?—No. Another?—No: at last you find three deep of fictitious farmers, and you find the European gentlemen, high in place and authority, the real farmers of the settlement. So that the zemindars were dispossessed, the country racked and ruined for the benefit of an European, under the name of a farmer: for you will easily judge whether these gentlemen had fallen so deeply in love with the banyans, and thought so highly of their merits and services, as to reward *them* with all the possessions of the great landed interest of the country. Your lordships are too grave, wise and discerning, to make it necessary for me to say more upon that subject. Tell me, that the banyans of English gentlemen, dependants on them at Calcutta, were the farmers throughout, and I believe

I need not tell your lordships, for whose benefit they were farmers.

But there is one of these, who comes so nearly, indeed so precisely within this observation, that it is impossible for me to pass him by. Whoever has heard of Mr. Hastings's name, with any knowledge of Indian connexions, has heard of his banyan Cantoo Baboo. This man is well known in the records of the company, as his agent for receiving secret gifts, confiscations, and presents. You would have imagined, that he would at least have kept *him* out of these farms, in order to give the measure a color at least of disinterestedness, and to show that this whole system of corruption and pecuniary oppression was carried on for the benefit of the company. The governor-general and council made an ostensible order, by which no collector, or person concerned in the revenue, should have any connexion with these farms. This order did not include the governor-general in the words of it, but more than included him in the spirit of it: because his power to protect a farmer-general in the person of his own servant was infinitely greater than tha of any subordinate person. Mr. Hastings, in breach of this order, gave farms to his own banyan. You find him the farmer of great, of vast, and extensive farms.

Another regulation that was made on that occasion, was, that no farmer should have, except in particular cases, which were marked, described, and accurately distinguished, a greater farm than what paid 10,000*l.* a year to government. Mr. Hastings, who had broken the first regulation by giving any farm at all to his banyan, finding himself bolder, broke the second too, and, instead of 10,000*l.* gave him farms paying a revenue of 130,000*l.* a year to government. Men undoubtedly have been known to be under the dominion of their domestics: such things have happened to great men; they never have happened justifiably, in my opinion. They have never happened excusably; but we are acquainted sufficiently with the weakness of human nature to know that a domestic, who has served you in a near office long, and in your opinion faithfully, does become a kind of relation: it brings on a great affection and regard for his interest. Now was this the case with Mr. Hastings and Cantoo Baboo? Mr. Hastings was just arrived at his government, and Cantoo Baboo had been but a year in his service; so that he could not in that time have contracted any great degree of friendship for him. These people do not live in your house; the Hindoo servants never sleep in it; they cannot eat with your servants; they have no second table, in which they can be continually about you, to be domesticated with yourself, a part of your being, as people's servants are to a certain de

gree. These persons live all abroad; they come at stated hours upon matters of business, and nothing more. But if it had been otherwise, Mr. Hastings's connexion with Cantoo Baboo had been but of a year's standing: he had before served in that capacity Mr. Sykes, who recommended him to Mr. Hastings. Your lordships then are to judge, whether such outrageous violations of all the principles, by which Mr. Hastings pretended to be guided in the settlement of these farms, were for the benefit of this old, decayed, affectionate servant of one year's standing—your lordships will judge of that.

I have here spoken only of the beginning of a great notorious system of corruption; which branched out so many ways, and into such a variety of abuses, and has afflicted that kingdom with such horrible evils from that day to this, that I will venture to say it will make one of the greatest, weightiest, and most material parts of the charge, that is now before you; as I believe I need not tell your lordships, that an attempt to set up the whole landed interest of a kingdom to auction must be attended, not only in that act, but every consequential act, with most grievous and terrible consequences.

My lords, I will now come to a scene of peculation of another kind; namely, a peculation by the direct sale of offices of justice; by the direct sale of the successions of families; by the sale of guardianships, and trusts, held most sacred among the people of India; by the sale of them, not as before to farmers, not as you might imagine to near relations of the families, but a sale of them to the unfaithful servants of those families, their own perfidious servants, who had ruined their estates, who, if any balances had accrued to the government, had been the cause of those debts. Those very servants were put in power over their estates, their persons and their families by Mr. Hastings for a shameful price. It will be proved to your lordships in the course of this business, that Mr. Hastings has done this in another sacred trust, the most sacred trust a man can have; that is, in the case of those vackiels (as they call them) agents, or attorneys, who had been sent to assert and support the rights of their miserable masters before the council-general. It will be proved, that these vackiels were by Mr. Hastings, for a price to be paid for it, put in possession of the very power, situation, and estates of those masters, who sent them to Calcutta to defend them from wrong and violence. The selling offices of justice, the sale of succession in families, of guardianships and other sacred trusts, the selling masters to their servants, and principals to the attorneys they employed to defend themselves, were all parts of the same system; and these were

the horrid ways, in which he received bribes beyond any common rate.

When Mr. Hastings was appointed in the year 1773 to be governor-general of Bengal, together with Mr. Barwell, General Clavering, Colonel Monson, and Mr. Francis, the company, knowing the former corrupt state of their service (but the whole corrupt system of Mr. Hastings at that time not being known, or even suspected at home) did order them, in discharge of the spirit of the act of parliament, to make an inquiry into all manner of corruptions and malversations in office, without the exception of any persons whatever. Your lordships are to know, that the act did expressly authorize the court of directors to frame a body of instructions, and to give orders to their new servants, appointed under the act of parliament, lest it should be supposed, that they, by their appointment under the act, could supersede the authority of the directors.

The directors, sensible of the power left in them over their servants by the act of parliament, though their nomination was taken from them, did, agreeably to the spirit and power of that act, give this order.

The council consisted of two parties; Mr. Hastings and Mr. Barwell, who were chosen, and kept there, upon the idea of their local knowledge; and the other three, who were appointed on account of their great parts and known integrity. And I will venture to say, that those three gentlemen did so execute their duty in India in all the substantial parts of it, that they will serve as a shield to cover the honor of England, whenever this country is upbraided in India.

They found a rumor running through the country of great peculations and oppressions. Soon after, when it was known, what their instructions were, and that the council was ready, as is the first duty of all governors, even when there is no express order, to receive complaints against the oppressions and corruptions of government in any part of it—they found such a body (and that body shall be produced to your lordships) of corruption and peculation in every walk, in every department, in every situation of life, in the sale of the most sacred trusts, and in the destruction of the most ancient families of the country, as I believe in so short a time never was unveiled since the world began.

Your lordships would imagine, that Mr. Hastings would at least ostensibly have taken some part in endeavoring to bring these corruptions before the public, or that he would at least have acted with some little management in his opposition. But alas! it was not in his power; there was not one, I think, but I am sure very few, of these general articles of corruption, in

which the most eminent figure in the crowd, the principal figure as it were in the piece, was not Mr. Hastings himself. There were a great many others involved; for all departments were corrupted and vitiated. But you could not open a page, in which you did not see Mr. Hastings, or in which you did not see Cantoo Baboo. Either the black or white side of Mr. Hastings constantly was visible to the world in every part of these transactions.

With the other gentlemen, who were visible too, I have at present no dealing. Mr. Hastings, instead of using any management on that occasion, instantly set up his power and authority, directly against the majority of the council, directly against his colleagues, directly against the authority of the East India company and the authority of the act of parliament, to put a dead stop to all these inquiries. He broke up the council the moment they attempted to perform this part of their duty. As the evidence multiplied upon him, the daring exertions of his power in stopping all inquiries increased continually. But he gave a credit and authority to the evidence by these attempts to suppress it.

Your lordships have heard, that among the body of the accusers of this corruption there was a principal man in the country, a man of the first rank and authority in it, called Nundcomar, who had the management of revenues amounting to 150,000*l.* a year, and who had, if really inclined to play the small game with which he has been charged by his accusers abundant means to gratify himself in playing great ones; but Mr. Hastings has himself given him, upon the records of the company, a character, which would at least justify the council in making some inquiry into charges made by him.

First, he was perfectly competent to make them, because he was in the management of those affairs, from which Mr. Hastings is supposed to have received corrupt emolument. He and his son were the chief managers in those transactions. He was, therefore, perfectly competent to it.—Mr. Hastings has cleared his character; for, though it is true in the contradictions, in which Mr. Hastings has entangled himself, he has abused and insulted him, and particularly after his appearance, as an accuser, yet before this he has given this testimony of him, that the hatred, that had been drawn upon him, and the general obloquy of the English nation, was on account of his attachment to his own prince and the liberties of his country Be he what he might, I am not disposed, nor have I the least occasion, to defend either his conduct or his memory.

It is to no purpose for Mr. Hastings to spend time in idle objections to the character of Nundcomar. Let him be as bad

as Mr. Hastings represents him. I suppose he was a caballing, bribing, intriguing politician, like others in that country, both black and white. We know, associates in dark and evil actions are not generally the best of men; but be that as it will, it generally happens, that they are the best of all discoverers. If Mr. Hastings were the accuser of Nundcomar, I should think the presumptions equally strong against Nundcomar, if he had acted as Mr. Hastings has acted. He was not only competent, but the most competent of all men to be Mr. Hastings's accuser. But Mr. Hastings has himself established both his character, and his competency, by employing him against Mahomed Reza Khân. He shall not blow hot and cold. In what respect was Mr. Hastings better than Mahomed Reza Khân, that the whole rule, principle, and system of accusation and inquiry should be totally reversed in general, nay, reversed in the particular instance, the moment he became accuser against Mr. Hastings. Such was the accuser. He was the man, that gave the bribes, and, in addition to his own evidence, offers proof by other witnesses.

What was the accusation? Was the accusation improbable, either on account of the subject-matter, or the actor in it? Does such an appointment as that of Munny Begum in the most barefaced evasion of his orders appear to your lordships a matter, that contains no just presumptions of guilt? so that when a charge of bribery comes upon it, you are prepared to reject it, as if the action were so clear and proper, that no man could attribute it to an improper motive? And, as to the man, is Mr. Hastings a man, against whom a charge of bribery is improbable? Why, he owns it. He is a professor of it. He reduces it into scheme and system. He glories in it. He turns it to merit, and declares it is the best way of supplying the exigencies of the company. Why therefore should it be held improbable?—But I cannot mention this proceeding without shame and horror.

My lords, when this man appeared as an accuser of Mr Hastings, if he was a man of bad character, it was a great advantage to Mr. Hastings to be accused by a man of that description. There was no likelihood of any great credit being given to him.

This person, who, in one of those sales, of which I have already given you some account in the history of the last period of the revolutions of Bengal, had been, or thought he had been, cheated of his money, had made some discoveries, and been guilty of that great irremissible sin in India, the disclosure of peculation. He afterwards came with a second disclosure, and was likely to have odium enough upon the occasion. He di-

rectly charged Mr. Hastings with the receipt of bribes amounting together to about 40,000*l.* sterling, given by himself, on his own account, and that of Munny Begum. The charge was accompanied with every particular, which could facilitate proof or detection, time, place, persons, species, to whom paid, by whom received. Here was a fair opportunity for Mr. Hastings at once to defeat the malice of his enemies, and to clear his character to the world. His course was different. He railed much at the accuser, but did not attempt to refute the accusation. He refuses to permit the inquiry to go on, attempts to dissolve the council, commands his banyan not to attend. The council however goes on, examines to the bottom, and resolves, that the charge was proved, and that the money ought to go to the company. Mr. Hastings then broke up the council, I will not say whether legally or illegally. The company's law counsel thought he might legally do it; but he corruptly did it, and left mankind no room to judge but that it was done for the screening of his own guilt; for a man may use a legal power corruptly, and for the most shameful and detestable purposes. And thus matters continued, till he commenced a criminal prosecution against this man—this man, whom he dared not meet as a defendant.

Mr. Hastings, instead of answering the charge, attacks the accuser. Instead of meeting the man in front, he endeavored to go round, to come upon his flanks and rear, but never to meet him in the face upon the ground of his accusation, as he was bound by the express authority of law, and the express injunctions of the directors, to do. If the bribery is not admitted on the evidence of Nundcomar, yet his suppressing it is a crime—a violation of the orders of the court of directors. He disobeyed those instructions; and if it be only for disobedience, for rebellion against his masters (putting the corrupt motive out of the question), I charge him for this disobedience, and especially on account of the principles, upon which he proceeded in it.

Then he took another step; he accused Nundcomar of a conspiracy, which was a way he then and ever since has used, whenever means were taken to detect any of his own iniquities.

And here it becomes necessary to mention another circumstance of history, that the legislature, not trusting entirely to the governor-general and council, had sent out a court of justice to be a counter security against these corruptions, and to detect and punish any such misdemeanors as might appear. And this court I take for granted has done great services.

Mr. Hastings flew to this court, which was meant to protect in their situations informers against bribery and corruption

rather than to protect the accused from any of the preliminary methods, which must indispensably be used for the purpose of detecting their guilt; he flew to this court, charging this Nundcomar and others with being conspirators.

A man might be convicted as a conspirator, and yet afterwards live; he might put the matter into other hands, and go on with his information; nothing less than *stone-dead* would do the business. And here happened an odd concurrence of circumstances. Long before Nundcomar preferred his charge, he knew, that Mr. Hastings was plotting his ruin, and that for this purpose he had used a man, whom he, Nundcomar, had turned out of doors, called Mohun Persaud. Mr. Hastings had seen papers put upon the board, charging him with this previous plot for the destruction of Nundcomar; and this identical person, Mohun Persaud, whom Nundcomar had charged as Mr. Hastings's associate in plotting his ruin, was now again brought forward, as the principal evidence against him. I will not enter (God forbid I should) into the particulars of the subsequent trial of Nundcomar; but you will find the marks and characters of it to be these. You will find a close connexion between Mr. Hastings and the chief justice, which we shall prove. We shall prove, that one of the witnesses, who appeared there, was a person, who had been before, or has since been, concerned with Mr. Hastings in his most iniquitous transactions. You will find what is very odd, that in this trial for forgery, with which this man stood charged, forgery in a private transaction, all the persons, who were witnesses, or parties to it, had been, before or since, the particular friends of Mr. Hastings—in short, persons from that rabble, with whom Mr. Hastings was concerned, both before and since, in various transactions and negotiations of the most criminal kind. But the law took its course. I have nothing more to say than that the man is gone—hanged justly if you please; and that it did so happen luckily for Mr. Hastings—it so happened, that the relief of Mr. Hastings and the justice of the court, and the resolution never to relax its rigor, did all concur just at a happy nick of time and moment; and Mr. Hastings accordingly had the full benefit of them all.

His accuser was supposed to be what men may be, and yet very competent for accusers—namely, one of his accomplices in guilty actions; one of those persons who may have a great deal to say of bribes. All that I contend for, is, that he was in the closest intimacy with Mr. Hastings, was in a situation for giving bribes; and that Mr. Hastings was proved afterwards to have received a sum of money from him, which may be well referred to bribes.

This example had its use in the way in which it was intended to operate, and in which alone it could operate. It did not discourage forgeries; they went on at their usual rate, neither more nor less. But it put an end to all accusations against all persons in power for any corrupt practice. Mr. Hastings observes, that no man in India complains of him. It is generally true. The voice of all India is stopped. All complaint was strangled with the same cord that strangled Nundcomar. This murdered not only that accuser, but all future accusation; and not only defeated, but totally vitiated and reversed, all the ends for which this country, to its eternal and indelible dishonor, had sent out a pompous embassy of justice to the remotest parts of the globe.

But though Nundcomar was put out of the way by the means by which *he* was removed, a part of the charge was not strangled with him. Whilst the process against Nundcomar was carrying on before Sir Elijah Impey, the process was continuing against Mr. Hastings in other modes; the receipt of a part of those bribes from Munny Begum to the amount of 15,000*l.* was proved against him; and that a sum, to the same amount, was to be paid to his associate, Mr. Middleton, as it was proved at Calcutta, so it will be proved at your lordships' bar, to your entire satisfaction, by records and living testimony now in England. It was indeed obliquely admitted by Mr. Hastings himself.

The excuse for this bribe, fabricated by Mr. Hastings, and taught to Munny Begum, when he found that she was obliged to prove it against him, was, that it was given to him for his entertainment, according to some pretended custom, at the rate of 200*l.* sterling a day, whilst he remained at Moorshedabad. My lords, this leads me to a few reflections on the apology or defence of this bribe. We shall certainly I hope render it clear to your lordships, that it was not paid in this manner, as a daily allowance, but given in a gross sum. But take it in his own way, it was no less illegal, and no less contrary to his covenant; but if true under the circumstances, it was a horrible aggravation of his crime. The first thing that strikes, is, that visits from Mr. Hastings are pretty severe things; and hospitality at Moorshedabad is an expensive virtue, though for provision it is one of the cheapest countries in the universe. No wonder that Mr. Hastings lengthened his visit, and made it extend near three months. Such hosts and such guests cannot be soon parted. Two hundred pounds a day for a visit! it is at the rate of 73,000*l.* a year for himself; and as I find his companion was put on the same allowance, it will be 146,000*l* a year for hospitality to two English gentlemen.

I believe that there is not a prince in Europe, who goes to such expensive hospitality of splendor. But that you may judge of the true nature of this hospitality of corruption, I must bring before you the business of the visiter, and the condition of the host, as stated by Mr. Hastings himself, who best knows what he was doing.

He was then at the old capital of Bengal, at the time of this expensive entertainment, on a business of retrenchment, and for the establishment of a most harsh, rigorous, and oppressive economy. He wishes the task were assigned to spirits of a less gentle kind. By Mr. Hastings's account, he was giving daily and hourly wounds to his humanity, in depriving of their sustenance hundreds of persons of the ancient nobility of a great fallen kingdom. Yet it was in the midst of this galling duty, it was at that very moment of his tender sensibility, that from the collected morsels plucked from the famished mouths of hundreds of decayed, indigent, and starving nobility, he gorged his ravenous maw with 200*l.* a day for his entertainment. In the course of all this proceeding, your lordships will not fail to observe, he is never corrupt, but he is cruel; he never dines with comfort, but where he is sure to create a famine. He never robs from the loose superfluity of standing greatness; he devours the fallen, the indigent, the necessitous. His extortion is not like the generous rapacity of the princely eagle, who snatches away the living, struggling prey: he is a vulture, who feeds upon the prostrate, the dying, and the dead. As his cruelty is more shocking than his corruption, so his hypocrisy has something more frightful than his cruelty. For whilst his bloody and rapacious hand signs proscriptions, and now sweeps away the food of the widow and the orphan, his eyes overflow with tears, and he converts the healing balm, that bleeds from wounded humanity, into a rancorous and deadly poison to the race of man.

Well, there was an end to this tragic entertainment, this feast of Tantalus. The few left on the pension-list, the poor remnants, that had escaped, were they paid by his administratrix and deputy, Munny Begum? Not a shilling. No fewer than forty-nine petitions, mostly from the widows of the greatest and most splendid houses of Bengal, came before the council, praying in the most deplorable manner for some sort of relief out of the pittance assigned them. His colleagues, General Clavering, Colonel Monson, and Mr. Francis, men, who, when England is reproached for the government of India, will, I repeat it, as a shield be held up between this nation and infamy, did, in conformity to the strict orders of the directors, appoint Mahomed Reza Khân to his old offices—that is, to the general

superintendency of the household and the administration of justice, a person, who, by his authority, might keep some order in the ruling family and in the state. The court of directors authorized them to assure those offices to him, with a salary reduced indeed to 30,000*l.* a year, during his good behavior. But Mr. Hastings, as soon as he obtained a majority by the death of the two best men ever sent to India, notwithstanding the orders of the court of directors, in spite of the public faith solemnly pledged to Mahomed Reza Khân, without a shadow of complaint, had the audacity to dispossess him of all his offices, and appoint his bribing patroness, the old dancing-girl, Munny Begum, once more to the viceroyalty and all its attendant honors and functions.

The pretence was more insolent and shameless than the act. Modesty does not long survive innocence. He brings forward the miserable pageant of the nabob, as he called him, to be the instrument of his own disgrace, and the scandal of his family and government. He makes him to pass by his mother, and to petition us to appoint Munny Begum once more to the administration of the viceroyalty. He distributed Mahomed Reza Khân's salary as a spoil.

When the orders of the court to restore Mahomed Reza Khân, with their opinion on the corrupt cause of his removal, and a second time to pledge to him the public faith for his continuance, were received, Mr. Hastings, who had been just before a pattern of obedience, when the despoiling, oppressing, imprisoning, and persecuting this man was the object, yet when the order was of a beneficial nature, and pleasant to a well-formed mind, he at once loses all his old principles, he grows stubborn and refractory, and refuses obedience. And in this sullen, uncomplying mood he continues, until, to gratify Mr Francis in an agreement on some of their differences, he consented to his proposition of obedience to the appointment of the court of directors. He grants to his arrangement of convenience what he had refused to his duty, and replaces that magistrate. But mark the double character of the man, never true to anything but fraud and duplicity. At the same time that he publicly replaces this magistrate, pretending compliance with his colleague, and obedience to his masters, he did, in defiance of his own and the public faith, privately send an assurance to the nabob—that is, to Munny Begum; informs her, that he was compelled by necessity to the present arrangement in favor of Mahomed Reza Khân; but that on the first opportunity he would certainly displace him again. And he kept faith with his corruption; and to show how vainly any one sought protection in the lawful authority of this kingdom, he displaced

Mahomed Reza Khân from the lieutenancy and controllership leaving him only the judicial department miserably curtailed.

But does he adhere to his old pretence of freedom to the nabob? No such thing. He appoints an absolute master to him under the name of resident, a creature of his personal favor, Sir J. Doiley, from whom there is not one syllable of correspondence, and not one item of account. How grievous this yoke was to that miserable captive, appears by a paper of Mr. Hastings, in which he acknowledges, that the nabob had offered, out of the 160,000*l.* payable to him yearly, to give up to the company no less than 40,000*l.* a year, in order to have the free disposal of the rest. On this all comment is superfluous. Your lordships are furnished with a standard, by which you may estimate his real receipt from the revenue assigned to him, the nature of the pretended residency, and its predatory effects It will give full credit to what was generally rumored and believed, that substantially and beneficially the nabob never received 50 out of the 160,000 pounds; which will account for his known poverty, and wretchedness, and that of all about him.

Thus, by his corrupt traffic of bribes with one scandalous woman, he disgraced and enfeebled the native Mahomedan government, captived the person of the sovereign, and ruined and subverted the justice of the country. What is worse, the steps taken for the murder of Nundcomar, his accuser, have confirmed and given sanction not only to the corruptions then practised by the governor-general, but to all, of which he has since been guilty. This will furnish your lordships with some general idea, which will enable you to judge of the bribe, for which he sold the country government.

Under this head you will have produced to you full proof of his sale of a judicial office to a person called Khân Jehân Khân, and the modes he took to frustrate all inquiry on that subject upon a wicked and false pretence, that according to his religious scruples he could not be sworn.

The great end and object I have in view is to snow the criminal tendency, the mischievous nature, of these crimes, and the means taken to elude their discovery. I am now giving your lordships that general view, which may serve to characterize Mr. Hastings's administration in all the other parts of it.

It was not true in fact (as Mr. Hastings gives out) that there was nothing now against him, and that when he had got rid of Nundcomar and his charge, he got rid of the whole. No such thing An immense load of charges of bribery remained. They were coming afterwards from every part of the province;

and there was no office in the execution of justice, which he was not accused of having sold in the most flagitious manner.

After all this thundering, the sky grew calm and clear, and Mr. Hastings sat with recorded peculation, with peculation proved upon oath on the minutes of that very council—he sat at the head of that council and that board where his peculations were proved against him. These were afterwards transmitted, and recorded in the registers of his masters, as an eternal monument of his corruption, and of his high disobedience, and flagitious attempts to prevent a discovery of the various peculations, of which he had been guilty, to the disgrace and ruin of the country committed to his care.

Mr. Hastings, after the execution of Nundcomar, if he had intended to make even a decent and commonly sensible use of it, would naturally have said, this man is justly taken away, who has accused me of these crimes; but as there are other witnesses, as there are other means of a further inquiry, as the man is gone, of whose perjuries I might have reason to be afraid, let us now go into the inquiry. I think he did very ill not to go into the inquiry, when the man was alive; but be it so, that he was afraid of him, and waited till he was removed, why not afterwards go into such an inquiry? Why not go into an inquiry of all the other peculations and charges upon him, which were innumerable, one of which I have just mentioned in particular, the charge of Munny Begum—of having received from her, or her adopted son, a bribe of 40,000*l.*?

Is it fit for a governor to say,—will Mr. Hastings say before this august assembly, I may be accused in a court of justice, I am upon my defence, let all charges remain against me, I will not give you an account? Is it fit, that a governor should sit with recorded bribery upon him at the head of a public board, and the government of a great kingdom, when it is in his power by inquiry to do it away? No—the chastity of character of a man in that situation ought to be as dear to him as his innocence. Nay, more depended upon it. His innocence regarded himself, his character regarded the public justice, regarded his authority, and the respect due to the English in that country. I charge it upon him, that not only did he suppress the inquiry to the best of his power (and it shall be proved) but he did not in any one instance endeavor to clear off that imputation and reproach from the English government. He went further, he never denied hardly any of those charges at the time. They are so numerous, that I cannot be positive; some of them he might meet with some sort of denial, but the most part he did not.

The first thing a man under such an accusation owes to the

world is to deny the charge; next to put it to the proof; and lastly to let inquiry freely go on. He did not permit this, but stopped it all in his power. I am to mention some exceptions perhaps hereafter, which will tend to fortify the principle tenfold.

He promised indeed the court of directors (to whom he never denied the facts) a full and liberal explanation of these transactions; which full and liberal explanation he never gave. Many years passed; even parliament took notice of it; and he never gave them a liberal explanation, or any explanation at all, of them. A man may say, I am threatened with a suit in a court, and it may be very disadvantageous to me, if I disclose my defence. That is a proper answer for a man in common life, who has no particular character to sustain; but is that a proper answer for a governor accused of bribery? that accusation transmitted to his masters, and his masters giving credit to it? Good God! is that a state, in which a man is to say, I am upon the defensive? I am on my guard? I will give you no satisfaction? I have promised it, but I have already deferred it for seven or eight years? Is not this tantamount to a denial?

Mr. Hastings, with this great body of bribery against him was providentially freed from Nundcomar, one of his accusers; and as good events do not come alone (I think there is some such proverb) it did so happen that all the rest, or a great many of them, ran away. But, however, the recorded evidence of the former charges continued; no new evidence came in; and Mr. Hastings enjoyed that happy repose, which branded peculation, fixed and eternized upon the records of the company, must leave upon a mind conscious of its own integrity.

My lords, I will venture to say, there is no man but owes something to his character. It is the grace, undoubtedly, of a virtuous firm mind often to despise common vulgar calumny; but if ever there is an occasion, in which it does become such a mind to disprove it, it is the case of being charged in high office with pecuniary malversation, pecuniary corruption. There is no case, in which it becomes an honest man—much less a great man—to leave upon record specific charges against him of corruption in his government, without taking any one step whatever to refute them.

Though Mr. Hastings took no step to refute the charges, he took many steps to punish the authors of them; and those miserable people, who had the folly to make complaints against Mr. Hastings, to make them under the authority of an act of parliament, under every sanction of public faith, yet in consequence of those charges every person concerned in them has

been, as your lordships will see, since his restoration to power, absolutely undone; brought from the highest situation to the lowest misery; so that they may have good reason to repent they ever trusted an English council, that they ever trusted a court of directors, that they ever trusted an English act of parliament, that they ever dared to make their complaints.

And here I charge upon Mr. Hastings, that by never taking a single step to defeat, or detect the falsehood of, any of those charges against him, and by punishing the authors of them, he has been guilty of such a subversion of all the principles of British government, as will deserve, and will I dare say meet, your lordships' most severe animadversion.

In the course of this inquiry we find a sort of pause in his peculations, a sort of gap in the history, as if pages were torn out. No longer we meet with the same activity in taking money, that was before found; not even a trace of complimentary presents is to be found in the records during the time, whilst General Clavering, Colonel Monson, and Mr. Francis, formed the majority of the council. There seems to have been a kind of truce with that sort of conduct for a while, and Mr. Hastings rested upon his arms. However, the very moment Mr. Hastings returned to power, peculation began again just at the same instant; the moment we find him free from the compulsion and terror of a majority of persons otherwise disposed than himself, we find him at his peculation again.

My lords, at this time very serious inquiries had begun in the House of Commons concerning peculation. They did not go directly to Bengal, but they began upon the coast of Coromandel, and with the principal governors there. There was, however, an universal opinion (and justly founded) that these inquiries would go to far greater lengths. Mr. Hastings was resolved then to change the whole course and order of his proceeding. Nothing could persuade him upon any account to lay aside his system of bribery; that he was resolved to persevere in. The point was now to reconcile it with his safety. The first thing he did was to attempt to conceal it, and accordingly we find him depositing very great sums of money in the public treasury through the means of the two persons I have already mentioned, namely, the deputy-treasurer and the accomptant, paying them in and taking bonds for them as money of his own, and bearing legal interest.

This was his method of endeavoring to conceal some at least of his bribes (for I would not suggest, nor have your lordships to think, that I believe, that these were his only bribes for there is reason to think there was an infinite number besides;) but it did so happen, that they were those bribes, which

he thought might be discovered, some of which he knew were discovered, and all of which he knew might become the subject of a parliamentary inquiry.

Mr. Hastings said, he might have concealed them for ever. Every one knows the facility of concealing corrupt transactions everywhere, in India particularly. But this is by himself proved not to be universally true, at least not to be true in his own opinion. For he tells you in his letter from Cheltenham, that he *would* have concealed the nabob's 100,000*l.* but that the magnitude rendered it easy of discovery. He, therefore, avows an intention of concealment.

But it happens here very singularly, that this sum, which his fears of discovery by *others* obliged him to discover *himself*, happens to be one of those, of which no trace whatsoever appears, except merely from the operation of his own apprehensions. There is no collateral testimony; Middleton knew nothing of it; Anderson knew nothing of it. It was not directly communicated to the faithful Larkins, or the trusty Crofts—which proves indeed the facility of concealment. The fact is, you find the application always upon the discovery But concealment or discovery is a thing of accident.

The bribes, which I have hitherto brought before your lordships, belong to the first period of his bribery, before he thought of the doctrine, on which he has since defended it. There are many other bribes, which we charge him with having received during this first period, before an improving conversation and close virtuous connexion with great lawyers had taught him how to practise bribes in such a manner as to defy detection, and instead of punishment to plead merit. I am not bound to find order and consistency in guilt; it is the reign of disorder. The order of the proceeding, as far as I am able to trace such a scene of prevarication, direct fraud, falsehood, and falsification of the public accounts, was this.—From bribes he knew he could never abstain; and his then precarious situation made him the more rapacious. He knew, that a few of his former bribes had been discovered, declared, recorded; that for the moment indeed he was secure, because all informers had been punished, and all concealers rewarded. He expected hourly a total change in the council; and that men like Clavering and Monson might be again joined to Francis; that some great avenger should arise from their ashes—"*Exoriare aliquis nostris ex ossibus ultor,*"—and that a more severe investigation, and an infinitely more full display would be made of his robbery, than hitherto had been done. He therefore began in the agony of his guilt to cast about for some device, by which he might continue his offence, if possible, with impunity,—and possibly make

a merit of it. He therefore first carefully perused the act of parliament, forbidding bribery, and his old covenant engaging him not to receive presents. And here he was more successful than upon former occasions. If ever an act was studiously and carefully framed to prevent bribery, it is that law of the 13th of the king, which he well observes admits no latitudes of construction, no subterfuge, no escape, no evasion. Yet has he found a defence of his crimes even in the very provisions, which were made for their prevention and their punishment. Besides the penalty, which belongs to every informer, the East India company was invested with a fiction of property in all such bribes, in order to drag them with more facility out of the corrupt hands, which held them. The covenant with an exception of 100 pounds, and the act of parliament without any exception, declared, that the governor-general and council should receive no presents *for their own use*. He therefore concluded that the system of bribery and extortion might be clandestinely and safely carried on, provided the party taking the bribes had an inward intention and mental reservation, that they should be privately applied to the company's service, in any way the briber should think fit; and that on many occasions this would prove the best method of supply for the exigencies of their service.

He accordingly formed, or pretended to form, a private bribe exchequer, collateral with, and independent of, the company's public exchequer; though in some cases administered by those, whom for his purposes he had placed in the regular official department. It is no wonder, that he has taken to himself an extraordinary degree of merit. For surely such an invention of finance I believe never was heard of,—an exchequer, wherein extortion was the assessor, fraud the cashier, confusion the accomptant, concealment the reporter, and oblivion the remembrancer: in short, such as I believe no man, but one driven by guilt into frenzy, could ever have dreamed of.

He treats the official and regular directors with just contempt, as a parcel of mean, mechanical book-keepers. He is an eccentric book-keeper, a Pindaric accomptant. I have heard of "the poet's eye in a fine frenzy rolling." Here was a revenue, exacted from whom he pleased, at what times he pleased, in what proportions he pleased, through what persons he pleased, by what means he pleased, to be accounted for, or not, at his discretion, and to be applied to what service he thought proper. I do believe your lordships stand astonished at this scheme; and indeed I should be very loth to venture to state such a scheme at all, however I might have credited it myself, to any sober ears, if, in his defence before the House of Commons and

before the lords, he had not directly admitted the fact of taking the bribes or forbidden presents, and had not in those defences, and much more fully in his correspondence with the directors, admitted the fact, and justified it upon these very principles.

As this is a thing so unheard of and unexampled in the world I shall first endeavor to account, as well as I can, for his motives to it, which your lordships will receive or reject, just as you shall find them tally with the evidence before you. I say, his motives to it; because I contend, that public valid reasons for it he could have none: and the idea of making the corruption of the governor-general a resource to the company never did or could for a moment enter into his thoughts.—I shall then take notice of the judicial constructions, upon which he justifies his acting in this extraordinary manner.—And lastly, show you the concealments, prevarications, and falsehoods, with which he endeavors to cover it. Because wherever you find a concealment you make a discovery. Accounts of money received and paid ought to be regular and official.

He wrote over to the court of directors, that there were certain sums of money he had received, and which were no his own, but that he had received them for their use. By this time, his intercourse with gentlemen of the law became more considerable than it had been before. When first attacked for presents, he never denied the receipt of them, or pretended to say they were for public purposes; but upon looking more into the covenants, and probably with better legal advice, he found that no money could be legally received for his own use; but as these bribes were directly given and received, as for his own use, yet (says he) there was an inward destination of them in my own mind to your benefit, and to your benefit have I applied them.

Now here is a new system of bribery, contrary to law, very ingenious in the contrivance, but, I believe, as unlikely to produce its intended effect upon the mind of man, as any pretence, that was ever used. Here Mr. Hastings changes his ground. Before, he was accused as a peculator; he did not deny the fact; he did not refund the money; he fought it off, he stood upon the defensive, and used all the means in his power to prevent the inquiry. That was the first era of his corruption, a bold, ferocious, plain, downright use of power. In the second, he is grown a little more careful and guarded, the effect of subtility. He appears no longer as a defendant, he holds himself up with a firm, dignified, and erect countenance, and says, I am not here any longer as a delinquent, a receiver of bribes, to be punished for what I have done wrong, or at least to suffer in my character for it. No, I am a great inventive genius,

who have gone out of all the ordinary roads of finance, have made great discoveries in the unknown regions of that science, and have for the first time established the corruption of the supreme magistrate as a principle of resource for government.

There are crimes, undoubtedly, of great magnitude, naturally fitted to create horror, and that loudly call for punishment, that have yet no idea of *turpitude* annexed to them; but unclean hands, bribery, venality and peculation are offences of turpitude, such as, in a governor, at once debase the person, and degrade the government itself, making it not only *horrible*, but vile and contemptible in the eyes of all mankind. In this humiliation and abjectness of guilt, he comes here not as a criminal on his defence, but as a vast fertile genius, who has made astonishing discoveries in the art of government;—"*Dicam insigne, recens, alio indictum ore*"—who by his flaming zeal and the prolific ardor and energy of his mind has boldly dashed out of the common path, and served his country by new and untrodden ways; and now he generously communicates for the benefit of all future governors, and all future governments, the grand arcanum of his long and toilsome researches. He is the first, but if we do not take good care, he will not be the last, that has established the corruption of the supreme magistrate among the settled resources of the state; and he leaves this principle as a bountiful donation, as the richest deposit, that ever was made in the treasury of Bengal. He claims glory and renown from that, by which every other person since the beginning of time has been dishonored and disgraced. It has been said of an ambassador, that he is a person employed to tell lies for the advantage of the court, that sends him. His is patriotic bribery, and public-spirited corruption. He is a peculator for the good of his country. It has been said, that private vices are public benefits. He goes the full length of that position, and turns his private peculation into a public good. This is what you are to thank him for. You are to consider him as a great inventor upon this occasion. Mr. Hastings improves on this principle. He is a robber in gross, and a thi in detail; he steals, he filches, he plunders, he oppresses, ne extorts—all for the good of the dear East India company,—all for the advantage of his honored masters the proprietors—all in gratitude to the dear perfidious court of directors, who have been in a practice to heap "insults on his person, slanders on his character, and indignities on his station; who never had the confidence in him, that they had in the meanest of his predecessors."

If you sanction this practice, if, after all you have exacted from the people by your taxes and public imposts, you are to

let loose your servants upon them to extort by bribery and peculation what they can from them, for the purpose of applying it to the public service only whenever they please,—this shocking consequence will follow from it. If your governor is discovered in taking a bribe, he will say, What is that to you? mind your business, I intend it for the public service. The man, who dares to accuse him, loses the favor of the governor-general, and the India company. They will say, the governor has been doing a meritorious action, extorting bribes for our benefit, and you have the impudence to think of prosecuting him. So that the moment the bribe is detected, it is instantly turned into a merit; and we shall prove, that this is the case with Mr. Hastings, whenever a bribe has been discovered.

I am now to inform your lordships, that, when he made these great discoveries to the court of directors, he never tells them who gave him the money; upon what occasion he received it; by what hands; or to what purposes he applied it.

When he can himself give no account of his motives, and even declares, that he cannot assign any cause, I am authorized and required to find motives for him—corrupt motives for a corrupt act. There is no one capital act of his administration, that did not strongly imply corruption. When a man is known to be free from all imputation of taking money, and it becomes an established part of his character, the errors, or even crimes, of his administration ought to be, and are in general, traced to other sources. You know it is a maxim. But once convict a man of bribery in any instance, and once by direct evidence, and you are furnished with a rule of irresistible presumption, that every other irregular act, by which unlawful gain may arise, is done upon the same corrupt motive. *Semel malus præsumitur semper malus.* As, for good acts, candor, charity, justice, oblige me not to assign evil motives, unless they serve some scandalous purpose, or terminate in some manifest evil end, so justice, reason and common sense compel me to suppose, that wicked acts have been done upon motives correspondent to their nature. Otherwise I reverse all the principles of judgment, which can guide the human mind, and accept even the symptoms, the marks and criteria, of guilt, as presumptions of innocence. One that confounds good and evil, is an enemy to the good!

His conduct upon these occasions may be thought irrational. But, thank God, guilt was never a rational thing, it distorts all the faculties of the mind, it perverts them, it leaves a man no longer in the free use of his reason; it puts him into confusion. He has recourse to such miserable and absurd expedients for covering his guilt, as all those, who are used to sit in the seat

of judgment, know have been the cause of detection of half the villanies in the world. To argue, that these could not be his reasons, because they were not wise, sound and substantial, would be to suppose what is not true, that bad men were always discreet and able. But I can very well from the circumstances discover motives, which may affect a giddy, superficial, shattered, guilty, anxious, restless mind, full of the weak resources of fraud, craft and intrigue, that might induce him to make these discoveries, and to make them in the manner he has done. Not rational, and well-fitted for their purposes, I am very ready to admit. For God forbid, that guilt should ever leave a man the free undisturbed use of his faculties. For as guilt never rose from a true use of our rational faculties, so it is very frequently subversive of them. God forbid, that prudence, the first of all the virtues, as well as the supreme director of them all, should ever be employed in the service of any of the vices.—No, it takes the lead, and is never found where justice does not accompany it; and, if ever it is attempted to bring it into the service of the vices, it immediately subverts their cause. It leads to their discovery, and, I hope and trust, finally to their utter ruin and destruction.

In the first place I am to remark to your lordships, that the accounts he has given of one of these sums of money are totally false and contradictory. Now there is not a stronger presumption, nor can one want more reason, to judge a transaction fraudulent, than that the accounts given of it are contradictory; and he has given three accounts utterly irreconcilable with each other. He is asked, How came you to take bonds for this money, if it was not your own? How came you to vitiate and corrupt the state of the company's records, and to state yourself a lender to the company, when in reality you were their debtor? His answer was, I really cannot tell; I have forgot my reasons; the distance of time is so great (namely, a time of about two years or not so long) I cannot give an account of the matter; perhaps I had this motive, perhaps I had another; (but what is the most curious,) perhaps I had none at all, which I can now recollect. You shall hear the account, which Mr. Hastings himself gives, his own fraudulent representation of these corrupt transactions. "For my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my letter to the honorable the court of directors of the 22d of May, 1782, namely, that I either chose to conceal the first receipts from public curiosity by receiving bonds for the

amount, or possibly acted without any studied design, which my memory, at that distance of time, could verify; and that I did not think it worth my care to observe the same means with the rest. It will not be expected, that I should be able to give a more correct explanation of my intentions after a lapse of three years, having declared at the time, that many particulars had escaped my remembrance; neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences, as necessarily, or with a strong probability, follow them."

My lords, you see, as to any direct explanation, that he fairly gives it up: he has used artifice and stratagem, which he knows will not do; and at last attempts to cover the treachery of his conduct by the treachery of his memory. Frequent applications were made to Mr. Hastings upon this article from the company—gentle hints, *gemitus columbæ*—rather little amorous complaints, that he was not more open and communicative; but all these gentle insinuations were never able to draw from him any further account till he came to England. When he came here, he left not only his memory, but all his notes and references, behind in India. When in India, the company could get no account of them, because he himself was not in England and when he was in England, they could get no account, because his papers were in India. He then sends over to Mr. Larkins to give that account of his affairs, which he was not able to give himself. Observe, here is a man taking money privately, corruptly, and which was to be sanctified by the future application of it, taking false securities to cover it; and who, when called upon to tell whom he got the money from, for what ends, and on what occasion, neither will tell in India, nor can tell in England, but sends for such an account as he has thought proper to furnish.

I am now to bring before you an account of what I think much the most serious part of the effects of his system of bribery, corruption and peculation. My lords, I am to state to you the astonishing and almost incredible means he made use of to lay all the country under contribution, to bring the whole into such dejection as should put his bribes out of the way of discovery. Such another example of boldness and contrivance I believe the world cannot furnish.

I have already shown amongst the mass of his corruptions, that he let the whole of the lands to farm to the banyans. Next that he sold the whole Mahomedan government of that country to a woman. This was bold enough, one should think; but without entering into the circumstances of the revenue change in 1772, I am to tell your lordships, that he had appointed six pro-

vincial councils, each consisting of many members, who had the ordinary administration of civil justice in that country, and the whole business of the collection of the revenues.

These provincial councils accounted to the governor-general and council, who, in the revenue department, had the whole management, control, and regulation of the revenue. Mr. Hastings did, in several papers to the court of directors, declare, that the establishment of these provincial councils, which at first he stated only as experimental, had proved useful in the experiment. And on that use, and upon that experiment, he had sent even the plan of an act of parliament to have it confirmed with the last and most sacred authority of this country. The court of directors desired, that, if he thought any other method more proper, he would send it to them for their approbation.

Thus the whole face of the British government, the whole of its order and constitution, remained from 1772 to 1781.—He had got rid some time before this period, by death, of General Clavering; by death, of Colonel Monson; and by vexation and persecution, and his consequent dereliction of authority, he had shaken off Mr. Francis. The whole council consisting only of himself and Mr. Wheler, he, having the casting vote, was in effect the whole council; and if ever there was a time when principle, decency, and decorum rendered it improper for him to do any extraordinary acts without the sanction of the court of directors, that was the time. Mr. Wheler was taken off, despair perhaps rendering the man, who had been in opposition futilely before, compliable. The man is dead. He certainly did not oppose him; if he had, it would have been in vain. But those very circumstances, which rendered it atrocious in Mr. Hastings to make any change, induced him to make this.—He thought that a moment's time was not to be lost, that other colleagues might come, when he might be overpowered by a majority again, and not able to pursue his corrupt plans. Therefore he was resolved—your lordships will remark the whole of this most daring and systematic plan of bribery and peculation,—he resolved to put it out of the power of his council in future to check or control him in any of his evil practices.

The first thing he did was to form an ostensible council at Calcutta, for the management of the revenues, which was not effectually bound, except it thought fit, to make any reference to the supreme council. He delegated to them—that is, to four covenanted servants—those functions, which, by act of parliament and the company's orders, were to be exercised by the council-general; he delegated to four gentlemen, creatures of his own, his own powers, but he laid them out to good interest.

It appears odd, that one of the first acts of a governor-general so jealous of his power as he is known to be, as soon as he had all the power in his own hands, should be to put all the revenues out of his own control. This, upon the first view, is an extraordinary proceeding. His next step was, without apprizing the court of directors of his intention, or without having given an idea of any such intention to his colleagues while alive, either those who died in India, or those who afterwards returned to Europe, in one day, in a moment, to annihilate the whole authority of the provincial councils, and delegate the whole power to these four gentlemen. These four gentlemen had for their secretary an agent given them by Mr. Hastings; a name that you will often hear of—a name, at the sound of which all India turns pale—the most wicked—the most atrocious—the boldest—the most dexterous villain, that ever the rank servitude of that country has produced. My lords, I am speaking with the most assured freedom, because there never was a friend of Mr. Hastings, there never was a foe of Mr. Hastings, there never was any human person, that ever differed on this occasion, or expressed any other idea of Gunga Govin Sing, the friend of Mr. Hastings, whom he intrusted with this important post. But you shall hear, from the account given by themselves, what the council thought of their functions, of their efficiency for the charge, and in whose hands that efficiency really was. I beg, hope, and trust, that your lordships will learn from the persons themselves, who were appointed to execute the office, their opinion of the real execution of it, in order that you may judge of the plan, for which he destroyed the whole English administration in India. "The committee must have a dewan, or executive officer, call him by what name you please. This man in fact has all the revenue, paid at the presidency, at his disposal, and can, if he has any abilities, bring all the renters under contribution. It is little advantage to restrain the committee themselves from bribery or corruption, when their executive officer has the power of practising both undetected.

"To display the arts employed by a native on such occasions would fill a volume. He discovers the secret resources of the zemindars and renters, their enemies and competitors; and by the engines of hope and fear, raised upon these foundations, he can work them to his purpose. The committee, with the best intentions, best abilities, and steadiest application, must after all be a tool in the hands of their dewan."

Your lordships see what the opinion of the council was of their own constitution. You see for what it was made. You see for what purpose the great revenue trust was taken from the council-general, from the supreme government. You see for

what purposes the executive power was destroyed. You have it from one of the gentlemen of this commission, at first four in number, and afterwards five, who was the most active efficient member of it. You see it was made for the purpose of being a tool in the hands of Gunga Govin Sing; that integrity, ability, and vigilance, could avail nothing; that the whole country might be laid under contribution by this man, and that he could thus practise bribery with impunity. Thus, your lordships see, the delegation of all the authority of the country, above and below, is given by Mr. Hastings to this Gunga Govin Sing. The screen, the veil spread before this transaction, is torn open by the very people themselves, who are the tools in it. They confess they can do nothing; they know they are instruments in the hands of Gunga Govin Sing; and Mr. Hastings uses his name and authority to make them such in the hands of the basest, the wickedest, the corruptest, the most audacious and atrocious villain ever heard of. It is to him all the English authority is sacrificed, and four gentlemen are appointed to be his tools and instruments.—Tools and instruments for what? They themselves state, that, if he has the inclination, he has the power and ability to lay the whole country under contribution, that he enters into the most minute secrets of every individual in it, gets into the bottom of their family affairs, and has a power totally to subvert and destroy them; and we shall show upon that head, that he well fulfilled the purposes, for which he was appointed. Did Mr. Hastings pretend to say, that he destroyed the provincial councils for their corruptness or insufficiency, when he dissolved them? No—he says he has no objection to their competency, no charge to make against their conduct, but that he has destroyed them for his new arrangement. And what is his new arrangement? Gunga Govin Sing. Forty English gentlemen were removed from their offices by that change. Mr. Hastings did it, however, very economically; for all these gentlemen were instantly put upon pensions, and consequently burdened the establishment with a new charge. Well, but the new council was formed and constituted upon a very economical principle also. These five gentlemen, you will have it in proof, with the necessary expenses of their office, were a charge of 62,000*l.* a year upon the establishment. But for great, eminent, capital services, 62,000*l.* though a much larger sum than what was thought fit to be allowed for the members of the supreme council itself, may be admitted. I will pass it. It shall be granted to Mr. Hastings, that these pensions, though they created a new burden on the establishment, were all well disposed, provided the council did their duty. But you have heard what they say themselves—they are not there

put to do any duty, they can do no duty; their abilities, their integrity availed them nothing, they are tools in the hands of Gunga Govin Sing. Mr. Hastings then has loaded the revenue with 62,000*l.* a year to make Gunga Govin Sing master of the kingdom of Bengal, Bahar and Orissa. What must the thing to be moved be, when the machinery, when the necessary tools for Gunga Govin Sing, have cost 62,000*l.* a year to the company? There it is—it is not my representation—not the representation of observant strangers, of good and decent people that understand the nature of that service, but the opinion of the tools themselves.

Now, did Mr. Hastings employ Gunga Govin Sing without a knowledge of his character? His character was known to Mr. Hastings; it was recorded long before, when he was turned out of another office. During my long residence, says he, in this country, this is the first time I heard of the character of Gunga Govin Sing being infamous. No information I have received, though I have heard *many* people speak ill of him, ever pointed to any particular *act* of infamy committed by Gunga Govin Sing. I have no intimate knowledge of Gunga Govin Sing. What I understand of his character has been from Europeans as well as natives. After—"He had many enemies at the time he was proposed to be employed in the company's service, and not *one advocate* among the natives who had immediate access to myself. I think, therefore, if his character had been such as has been described, the knowledge of it could hardly have failed to have been ascertained to me by the *specific* facts. I have heard him loaded, as I have many others, with general reproaches, but have never heard any one express a doubt of *his abilities.*" Now, if anything in the world should induce you to put the whole trust of the revenues of Bengal, both above and below, into the hands of a single man, and to delegate to him the whole jurisdiction of the country, it must be, that he either was, or at least was reputed to be, a man of integrity. Mr. Hastings does not pretend, that he is reputed to be a man of integrity. He knew that he was not able to contradict the charge brought against him; and that he had been turned out of office by his colleagues, for reasons assigned upon record, and approved by the directors, for malversation in office. He had, indeed, crept again into the Calcutta committee; and they were upon the point of turning him out for malversation, when Mr. Hastings saved them the trouble by turning out the whole committee, consisting of a president and five members. So that in all times, in all characters, in all places, he stood as a man of a bad character and evil repute, though supposed to be a man of great abilities.

My lords, permit me for one moment to drop my representative character here, and to speak to your lordships only as a man of some experience in the world, and conversant with the affairs of men, and with the characters of men.

I do then declare my conviction, and wish it may stand recorded to posterity, that there never was a *bad man*, that had ability for *good service*. It is not in the nature of such men; their minds are so distorted to selfish purposes, to knavish, artificial, and crafty means of accomplishing those selfish ends, that, if put to any good service, they are poor, dull, helpless. Their natural faculties never have that direction,—they are paralytic on that side;—the muscles, if I may use the expression, that ought to move it, are all dead. They know nothing, but how to pursue selfish ends by wicked and indirect means. No man ever knowingly employed a bad man on account of his abilities, but for evil ends. Mr. Hastings knew this man to be bad; all the world knew him to be bad; and how did he employ him? in such a manner as that he might be controlled by others? A great deal might be said for him, if this had been the case. There might be circumstances, in which such a man might be used in a subordinate capacity. But who ever thought of putting such a man virtually in possession of the whole authority both of the committee and the council-general, and of the revenues of the whole country?

I will do Mr. Hastings the justice to say, that if he had known there was another man more accomplished in all iniquity than Gunga Govin Sing, he would not have given him the first place in his confidence. But there is another next to him in the country, whom you are to hear of by and by, called Debi Sing. This person in the universal opinion of all Bengal is ranked next to Gunga Govin Sing; and, what is very curious, they have been recorded by Mr. Hastings as rivals in the same virtues.

Arcades ambo,
Et cantare pares, et respondere parati.

But Mr. Hastings has the happiest modes in the world; these rivals were reconciled on this occasion, and Gunga Govin Sing appoints Debi Sing, superseding all the other officers for no reason whatever upon record. And because like champions they ought to go in pairs, there is an English gentleman, one Mr. Goodlad, whom you will hear of presently, appointed along with him. Absolute strangers to the rajah's family, the first act they do is—to cut off 1,000 out of 1,600 a month from his allowance. They state (though there was a great number of dependants to maintain) that 600 would be enough to maintain him. There appears in the account of these proceed-

ings to be such a flutter about the care of the rajah, and the management of his household; in short, that there never was such a tender guardianship as, always with the knowledge of Mr. Hastings, is exercised over this poor rajah, who had just given, if he did give, 40,000*l.* for *his own* inheritance, if it was his due—for the inheritance of *others*, if it was not his due. One would think he was entitled to some mercy; but probably, because the money could not otherwise be supplied, his establishment was cut down by Debi Sing and Mr. Goodlad a thousand a month, which is just twelve thousand a year.

When Mr. Hastings had appointed those persons to the guardianship, who had an interest in the management of the rajah's education and fortune, one should have thought, before they were turned out, he would at least have examined whether such a step was proper or not. No, they were turned out, without any such examination; and when I come to inquire into the proceedings of Gunga Govin Sing's committee, I do not find, that the new guardians have brought to account one single shilling they received, appointed as they were by that council newly made to superintend all the affairs of the rajah.

There is not one word to be found of an account: Debi Sing's honor, fidelity and disinterestedness, and that of Mr. Goodlad, is sufficient; and that is the way, in which the management and superintendence of one of the greatest houses in that country is given to the guardianship of strangers. And how is it managed? we find Debi Sing in possession of the rajah's family, in possession of his affairs, in the management of his whole zemidary; and in the course of the next year he is to give him in farm the whole of the revenues of these three provinces. Now whether the peshcush was received for the nomination of the rajah, as a bribe in judgment, or whether Mr. Hastings got it from Debi Sing, as a bribe in office, for appointing him to the guardianship of a family that did not belong to him, and for the dominion of three great, and once wealthy, provinces—which is best or worst I shall not pretend to determine. You find the rajah in his possession, you find his education, his household in his possession. The public revenues are in his possession; they are given over to him.

If we look at the records, the letting of these provinces appears to have been carried on by the new committee of revenue, as the course and order of business required it should. But by the investigation into Mr. Hastings's money transactions, the insufficiency and fallacy of these records is manifest beyond a doubt. From this investigation it is discovered, that it was in reality a bargain secretly struck between the governor-general and Debi Sing; and that the committee were only employed in

the mere official forms. From the time, that Mr. Hastings new modelled the revenue system, nothing is seen in its true shape. We now know, in spite of the fallacy of these records, who the true grantor was; it will not be amiss to go a little further in supplying their defects, and to inquire a little concerning the grantee. This makes it necessary for me to inform your lordships who Debi Sing is.

[*Mr. Burke read the committee's recommendation of Debi Sing to the governor-general and council: but the copy of the paper alluded to is wanting.*]

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Here is a choice, here is Debi Sing presented for his knowledge in business, his trust and fidelity; and that he is a person, against whom no objection can be made. This is presented to Mr. Hastings, by him recorded in the council books, and by him transmitted to the court of directors. Mr. Hastings has since recorded, that he knew this Debi Sing, (though he here publicly authorizes the nomination of him to all that great body of trusts,) that he knew him to be a man completely capable of the most atrocious iniquities, that were ever charged upon man. Debi Sing is appointed to all those great trusts through the means of Gunga Govin Sing, from whom he (Mr. Hastings) had received 30,000*l.* as a part of a bribe.

Now, though it is a large field, though it is a thing, that, I must confess, I feel a reluctance almost in venturing to undertake, exhausted as I am, yet such is the magnitude of the affair, such the evil consequences that followed from a system of bribery, such the horrible consequences of superseding all the persons in office in the country to give it into the hands of Debi Sing, that though it is the public opinion, and though no man, that has ever heard the name of Debi Sing, does not know, that he was only second to Gunga Govin Sing, yet it is not to my purpose, unless I prove, that Mr. Hastings knew his character at the very time he accepts him as a person against whom no exception could be made.

It is necessary to inform your lordships who this Debi Sing was, to whom these great trusts were committed, and those great provinces given.

It may be thought, and not unnaturally, that in this sort of corrupt and venal appointment to high trust and office, Mr Hastings has no other consideration than the money he received. But whoever thinks so will be deceived. Mr. Hastings was very far from indifferent to the character of the persons he

dealt with. On the contrary, he made a most careful selection. he had a very scrupulous regard to the aptitude of the men for the purposes for which he employed them; and was much guided by his experience of their conduct in those offices, which had been sold to them upon former occasions.

Except Gunga Govin Sing (whom, as justice required, Mr. Hastings distinguished by the highest marks of his confidence,) there was not a man in Bengal, perhaps not upon earth, a match for this Debi Sing. He was not an unknown subject; not one rashly taken up as an experiment. He was a tried man; and if there had been one more desperately and abandonedly corrupt, more wildly and flagitiously oppressive, to be found unemployed in India, large as his offers were, Mr. Hastings would not have taken this money from Debi Sing.

Debi Sing was one of those who, in the early stages of the English power in Bengal, attached himself to those natives, who then stood high in office. He courted Mahomed Reza Khân, a Mussulman of the highest rank, of the tribe of Koreish, whom I have already mentioned, then at the head of the revenue, and now at the head of the criminal justice of Bengal, with all the supple assiduity, of which those, who possess no valuable art or useful talent, are commonly complete masters. Possessing large funds acquired by his apprenticeship and novitiate in the lowest frauds, he was enabled to lend to this then powerful man, in the several emergencies of his variable fortune, very large sums of money. This great man had been brought down by Mr. Hastings, under the orders of the court of directors, upon a cruel charge, to Calcutta. He was accused of many crimes, and acquitted, 220,000*l.* in debt. That is to say, as soon as he was a great debtor, he ceased to be a great criminal.

Debi Sing obtained by his services no slight influence over Mahomed Reza Khân, a person of a character very different from his.

From that connexion he was appointed to the farm of the revenue, and inclusively of the government of Purnea, a province of very great extent, and then in a state of no inconsiderable opulence. In this office he exerted his talents with so much vigor and industry, that in a very short time the province was half depopulated, and totally ruined.

The farm, on the expiration of his lease, was taken by a set of adventurers in this kind of traffic from Calcutta. But when the new undertakers came to survey the object of their future operations, and future profits, they were so shocked at the hideous and squalid scenes of misery and desolation, that glared upon them in every quarter, that they instantly fled out of the

country, and thought themselves but too happy to be permitted, on the payment of a penalty of twelve thousand pounds, to be released from their engagements.

To give in a few words as clear an idea, as I am able to give, of the immense volume, which might be composed of the vexations, violence, and rapine of that tyrannical administration, the territorial revenue of Purnea, which had been let to Debi Sing at the rate of 160,000*l.* sterling a year, was with difficulty leased for a yearly sum under 90,000*l.* and with all rigor of exaction produced in effect little more than 60,000*l.* falling greatly below one half of its original estimate.—So entirely did the administration of Debi Sing exhaust all the resources of the province; so totally did his baleful influence blast the very hope and spring of all future revenue.

The administration of Debi Sing was too notoriously destructive not to cause a general clamor. It was impossible, that it should be passed over without animadversion. Accordingly, in the month of September 1772, Mr. Hastings, then at the head of the committee of circuit, removed him for maladministration; and he has since publicly declared on record, that he knew him to be capable of all the most horrid and atrocious crimes, that can be imputed to man.

This brand, however, was only a mark for Mr. Hastings to find him out hereafter in the crowd; to identify him for his own; and to call him forth into action, when his virtues should be sufficiently matured for the services, in which he afterwards employed him through his instruments Mr. Anderson and Gunga Govin Sing. In the mean time he left Debi Sing to the direction of his own good genius.

Debi Sing was stigmatized in the company's records, his reputation was gone, but his funds were safe. In the arrangement made by Mr. Hastings in the year 1773, by which provincial councils were formed, Debi Sing became deputy steward, or secretary, (soon in effect and influence principal steward) to the provincial council of Moorshedabad, the seat of the old government, and the first province of the kingdom; and to his charge were committed various extensive and populous provinces, yielding an annual revenue of 120 lacs of rupees, or 1,500,000*l.* This division of provincial council included Rungpore, Edrackpore, and others, where he obtained such a knowledge of their resources, as subsequently to get possession of them.

Debi Sing found this administration composed mostly of young men, dissipated and fond of pleasure, as is usual at that time of life; but desirous of reconciling those pleasures, which usually consume wealth, with the means of making a great and

speedy fortune; at once eager candidates for opulence, and perfect novices in all the roads that lead to it. Debi Sing commiserated their youth and inexperience, and took upon him to be their guide.

There is a revenue in that country, raised by a tax more productive than laudable. It is an imposition on public prostitutes, a duty upon the societies of dancing girls; those seminaries, from which Mr. Hastings has selected an administrator of justice and governor of kingdoms. Debi Sing thought it expedient to farm this tax; not only because he neglected no sort of gain, but because he regarded it as no contemptible means of power and influence. Accordingly, in plain terms, he opened a legal brothel, out of which he carefully reserved (you may be sure) the very flower of his collection for the entertainment of his young superiors; ladies recommended not only by personal merit, but, according to the eastern custom, by sweet and enticing names, which he had given them. For, if they were to be translated they would sound,—Riches of my Life; Wealth of my Soul; Treasure of Perfection; Diamond of Splendor; Pearl of Price; Ruby of Pure Blood; and other metaphorical descriptions, that, calling up dissonant passions to enhance the value of the general harmony, heightened the attractions of love with the allurements of avarice. A moving seraglio of these ladies always attended his progress, and were always brought to the splendid and multiplied entertainments, with which he regaled his council. In these festivities, whilst his guests were engaged with the seductions of beauty, the intoxications of the most delicious wines of France, and the voluptuous vapor of perfumed India smoke, uniting the vivid satisfactions of Europe with the torpid blandishments of Asia, the great magician himself, chaste in the midst of dissoluteness, sober in the centre of debauch, vigilant in the lap of negligence and oblivion, attended with an eagle's eye the moment for thrusting in business, and at such times was able to carry without difficulty points of shameful enormity, which at other hours he would not so much as have dared to mention to his employers, young men rather careless and inexperienced than intentionally corrupt. Not satisfied with being pander to their pleasures, he anticipated, and was purveyor to, their wants, and supplied them with a constant command of money; and by these means he reigned with an uncontrolled dominion over the province and over its governors.

For you are to understand, that in many things we are very much misinformed with regard to the true seat of power in India. Whilst we were proudly calling India a British government, it was in substance a government of the lowest, basest,

and most flagitious of the native rabble; to whom the far greater part of the English, who figured in employment and station, had from their earliest youth been slaves and instruments. Banyans had anticipated the period of their power in premature advances of money; and have ever after obtained the entire dominion over their nomina masters.

By these various ways and means, Debi Sing contrived to add job to job, employment to employment, and to hold, besides the farms of two very considerable districts, various trusts in the revenue; sometimes openly appearing; sometimes hid two or three deep in false names; emerging into light, or shrouding himself in darkness, as successful, or defeated crimes rendered him bold or cautious. Every one of these trusts was marked with its own fraud; and for one of those frauds committed by him in another name, by which he became deeply in balance to the revenue, he was publicly whipped by *proxy*.

All this while Mr. Hastings kept his eye upon him, and attended to his progress. But, as he rose in Mr. Hastings's opinion, he fell in that of his immediate employers. By degrees, as reason prevailed, and the fumes of pleasure evaporated, the provincial council emerged from their first dependence; and, finding nothing but infamy attending the councils and services of such a man, resolved to dismiss him. In this strait, and crisis of his power, the artist turned himself into all shapes. He offered great sums individually; he offered them collectively; and at last put a carte blanche on the table—all to no purpose! What! are you stones?—Have I not men to deal with?—Will flesh and blood refuse me?

When Debi Sing found, that the council had entirely escaped, and were proof against his offers, he left them with a sullen and menacing silence. He applied where he had good intelligence, that these offers would be well received; and that he should at once be revenged of the council, and obtain all the ends which through them he had sought in vain.

Without hesitation or scruple, Mr. Hastings sold a set of innocent officers; sold his fellow-servants of the company, entitled by every duty to his protection; sold English subjects, recommended by every tie of national sympathy; sold the honor of the British government itself; without charge, without complaint, without allegation of crime in conduct, or of insufficiency in talents; he sold them to the most known and abandoned character, which the rank servitude of that clime produces. For *him*, he entirely broke and quashed the council of Moorshedabad, which had been the settled government for twelve years, (a long period in the changeful history of India,) at a time too when it had acquired a great degree of consistency

an official experience, a knowledge and habit of business, and was making full amends for early errors.

For now Mr. Hastings, having buried Colonel Monson and General Clavering, and having shaken off Mr. Francis, who retired half dead from office, began at length to respire; he found elbow-room once more to display his genuine nature and disposition, and to make amends in a riot and debauch of peculation for the forced abstinence, to which he was reduced during the usurped dominion of honor and integrity.

It was not enough, that the English were thus sacrificed to the revenge of Debi Sing. It was necessary to deliver over the natives to his avarice. By the intervention of bribe brokerage, he united the two great rivals in iniquity, who before from an emulation of crimes were enemies to each other, Gunga Govin Sing, and Debi Sing. He negotiated the bribe and the farm of the latter through the former; and Debi Sing was invested in farm for two years with the three provinces of Dinagepore, Edrackpore, and Rungpore; territories, making together a tract of land superior in dimensions to the northern counties of England, Yorkshire included.

To prevent anything, which might prove an obstacle on the full swing of his genius, he removed all the restraints, which had been framed to give an ostensible credit, to give some show of official order, to the plans of revenue administration framed from time to time in Bengal. An officer, called a dewan, had been established in the provinces, expressly as a check on the person who should act as farmer-general. This office he conferred along with that of farmer-general on Debi Sing, in order that Debi might become an effectual check upon Sing; and thus these provinces, without inspection, without control, without law, and without magistrates, were delivered over by Mr. Hastings, bound hand and foot, to the discretion of the man, whom he had before recorded as the destroyer of Purnea; and capable of every the most atrocious wickedness, that could be imputed to man.

Fatally for the natives of India, every wild project and every corrupt sale of Mr. Hastings, and those whose example he followed, is covered with a pretended increase of revenue to the company. Mr. Hastings would not pocket his bribe of 40,000*l.* for himself without letting the company in as a sharer and accomplice. For the province of Rungpore, the object, to which I mean in this instance to confine your attention, 7,000*l.* a year was added. But lest this avowed increase of rent should seem to lead to oppression, great and religious care was taken in the covenant, so stipulated with Debi Sing, that *this* increase should not arise from any additional assessment what-

soever on the country, but solely from improvements in the cultivation, and the encouragement to be given to the landholder and husbandman. But as Mr. Hastings's bribe, of a far greater sum, was not guarded by any such provision, it was left to the discretion of the donor in what manner he was to indemnify himself for it.

Debi Sing fixed the seat of his authority at Dinagepore, where as soon as he arrived, he did not lose a moment in doing his duty. If Mr. Hastings can forget his covenant, you may easily believe, that Debi Sing had not a more correct memory; and, accordingly, as soon as he came into the province, he instantly broke every covenant, which he had entered into, as a restraint on his avarice, rapacity and tyranny; which, from the highest of the nobility and gentry to the lowest husbandman, were afterwards exercised, with a stern and unrelenting impartiality, upon the whole people. For notwithstanding the province before Debi Sing's lease was, from various causes, in a state of declension, and in balance for the revenue of the preceding year, at his very first entrance into office he forced from the zemindars or landed gentry an enormous increase of their tribute. They refused compliance. On this refusal he threw the whole body of zemindars into prison; and thus in bonds and fetters compelled them to sign their own ruin by an increase of rent, which they knew they could never realize.

Having thus gotten them under, he added exaction to exaction, so that every day announced some new and varied demand; until exhausted by these oppressions they were brought to the extremity, to which he meant to drive them, the sale of their lands.

The lands held by the zemindars of that country are of many descriptions. The first and most general are those, that pay revenue. The others are of the nature of demesne lands, which are free and pay no rent to government. The latter are for the immediate support of the zemindars and their families, as from the former they derive their influence, authority, and the means of upholding their dignity. The lands of the former description were immediately attached, sequestered and sold for the most trifling consideration. The rent-free lands, the best and richest lands of the whole province, were sold—sold for—what do your lordships think?—They were sold for less than one year's purchase,—at less than one year's purchase, at the most underrated value; so that the fee simple of an English acre of rent-free land sold at the rate of seven or eight shillings. Such a sale on such terms strongly indicated the purchaser. And how did it turn out in fact? The purchaser was the very agent and instrument of Mr. Hastings, Debi Sing

himself. He made the exaction; he forced the sale; he reduced the rate; and he became the purchaser at less than one year's purchase, and paid with the very money which he had extorted from the miserable vendors.

When he had thus sold and separated these lands, he united the whole body of them, amounting to about 7,000*l.* sterling a year (but according to the rate of money and living in that country equivalent to a rental in England of 30,000*l.* a year); and then having raised in the new letting, as on the sale he had fraudulently reduced, those lands, he reserved them as an estate for himself, or to whomsoever resembling himself Mr. Hastings should order them to be disposed.

The lands, thus sold for next to nothing, left of course the late landholder still in debt. The failure of fund, the rigorous exaction of debt, and the multiplication of new arbitrary taxes next carried off the goods. There is a circumstance attending this business, which will call for your lordships' pity. Most of the landholders or zemindars in that country happened at that time to be women. The sex there is in a state certainly resembling imprisonment, but guarded as a sacred treasure with all possible attention and respect. None of the coarse male hands of the law can reach them; but they have a custom, very cautiously used in all good governments there, of employing female bailiffs, or sergeants, in the execution of the law, where that sex is concerned. Guards, therefore, surrounded the houses; and then female sergeants and bailiffs entered into the habitations of these female zemindars, and held their goods and persons in execution, nothing being left but, what was daily threatened, their life, and honor. The landholders, even women of eminent rank and condition, for such the greatest part of the zemindars then were, fled from the ancient seats of their ancestors, and left their miserable followers and servants who in that country are infinitely numerous, without protection and without bread. The monthly instalment of Mr. Hastings's bribe was become due, and his rapacity must be fed from the vitals of the people.

The zemindars, before their own flight, had the mortification to see all the lands assigned to charitable and to religious uses, the humane and pious foundations of themselves and their ancestors, made to support infirmity and decrepitude, to give feet to the lame, and eyes to the blind, and to effect which they had deprived themselves of many of the enjoyments of life, cruelly sequestered and sold at the same market of violence and fraud, where their demesne possessions and their goods had been before made away with. Even the lands and funds set aside for their funeral ceremonies, in which they hoped to find an end to

their miseries, and some indemnity of imagination for all the substantial sufferings of their lives: even the very feeble consolations of death were by the same rigid hand of tyranny, a tyranny more consuming than the funeral pile, more greedy than the grave, and more inexorable than death itself, seized and taken to make good the honor of corruption, and the faith of bribery pledged to Mr. Hastings or his instruments.

Thus it fared with the better and middling orders of the people. Were the lower, the more industrious spared?—Alas! as their situation was far more helpless, their oppression was infinitely more sore and grievous; the exactions yet more excessive, the demand yet more vexatious, more capricious, more arbitrary. To afford your lordships some idea of the condition of those, who were served up to satisfy Mr. Hastings's hunger and thirst for bribes, I shall read it to you in the very words of the representative tyrant himself, Rajah Debi Sing. Debi Sing, when he was charged with a fraudulent sale of the ornaments of gold and silver of women, who according to the modes of that country had starved themselves to decorate their unhappy persons, argued on the improbability of this part of the charge, in these very words:

"It is notorious," says he, "that poverty generally prevails amongst the husbandmen of Rungpore, more perhaps than in any other parts of the country. They are seldom possessed of any property except at the time they reap their harvest; and at others, barely procure their subsistence. And this is the cause that such numbers of them were swept away by the famine. Their effects are only a little earthenware, and their houses only a handful of straw; the sale of *a thousand* of which would not perhaps produce twenty shillings."

These were the opulent people, from whose superfluities Mr. Hastings was to obtain a gift of 40,000*l.* over and above a large increase of rent, over and above the exactions, by which the farmer must reimburse himself for the advance of the money, by which he must obtain the natural profit of the farm, as well as supply the peculium of his own avarice.

Therefore your lordships will not be surprised at the consequences. All this unhappy race of little farmers, and tillers of the soil, were driven like a herd of cattle by his extortioners, and compelled by imprisonments, by fetters, and by cruel whippings, to engage for more than the whole of their substance or possible acquisition.

Over and above this, there was no mode of extortion which the inventive imagination of rapacity could contrive, that was not contrived and was not put in practice. On its own day your lordships will hear with astonishment, detestation and

horror, the detail of these tyrannous inventions; and it will appear, that the aggregate of these superadded demands amounted to as great a sum as the whole of the compulsory rent, on which they were piled.

The country being in many parts left wholly waste, and in all parts considerably depopulated by the first rigors, the full rate of the district was exacted from the miserable survivors. Their burdens were increased, as their fellow laborers, to whose joint efforts they were to owe the means of payment, diminished. Driven to make payments, beyond all possible calculation, previous to receipts and above their means, in a very short time they fell into the hands of usurers.

The usurers, who under such a government held their own funds by a precarious tenure, and were to lend to those whose substance was still more precarious, (to the natural hardness and austerity of that race of men,) had additional motives to extortion, and made their terms accordingly. And what were the terms these poor people were obliged to consent to, to answer the bribes and peshcush paid to Mr. Hastings? five, ten twenty, forty per cent.? No! at an interest of six hundred per cent. per annum, payable by the day! A tiller of land to pay six hundred per cent., to discharge the demands of government! What exhaustless fund of opulence could supply this destructive resource of wretchedness and misery? Accordingly, the husbandman ground to powder between the usurer below and the oppressor above, the whole crop of the country was forced at once to market; and the market glutted, overcharged and suffocated, the price of grain fell to the fifth part of its usual value. The crop was then gone, but the debt remained. An universal treasury extent, and process of execution, followed on the cattle and stock, and was enforced, with more or less rigor, in every quarter. We have it in evidence, that in those sales five cows were sold for not more than seven or eight shillings. All other things were depreciated in the same proportion. The sale of the instruments of husbandry succeeded to that of the corn and stock. Instances there are, where, all other things failing, the farmers were dragged from the court to their houses, in order to see them first plundered, and then burnt down before their faces. It was not a rigorous collection of revenue, it was a savage war made upon the country.

The peasants were left little else than their families and their bodies. The families were disposed of. It is a known observation, that those, who have the fewest of all other worldly enjoyments, are the most tenderly attached to their children and wives. The most tender of parents sold their children at

market. The most fondly jealous of husbands sold their wives. The tyranny of Mr. Hastings extinguished every sentiment of father, son, brother, and husband!

I come now to the last stage of their miseries: everything visible and vendible was seized and sold. Nothing but the bodies remained.

It is the nature of tyranny and rapacity never to learn moderation from the ill success of first oppressions; on the contrary, all oppressors, all men thinking highly of the methods dictated by their nature, attribute the frustration of their desires to the want of sufficient rigor. Then they redouble the efforts of their impotent cruelty; which producing, as they must ever produce, new disappointments, they grow irritated against the objects of their rapacity; and then, rage, fury and malice (implacable because unprovoked) recruiting and reinforcing their avarice, their vices are no longer human. From cruel men they are transformed into savage beasts, with no other vestiges of reason left but what serves to furnish the inventions and refinements of ferocious subtlety, for purposes of which beasts are incapable, and at which fiends would blush.

Debi Sing and his instruments suspected, and in a few cases they suspected justly, that the country people had purloined from their own estates, and had hidden in secret places in the circumjacent deserts, some small reserve of their own grain to maintain themselves during the unproductive months of the year, and to leave some hope for a future season. But the under tyrants knew, that the demands of Mr. Hastings would admit no plea for delay, much less for subtraction of his bribe, and that he would not abate a shilling of it to the wants of the whole human race. These hoards, real or supposed, not being discovered by menaces and imprisonment, they fell upon the last resource, the naked bodies of the people. And here, my lords, began such a scene of cruelties and tortures, as I believe no history has ever presented to the indignation of the world; such as I am sure, in the most barbarous ages, no politic tyranny, no fanatic persecution has ever yet exceeded. Mr. Paterson, the commissioner appointed to inquire into the state of the country, makes his own apology and mine for opening this scene of horrors to you in the following words: "That the punishments, inflicted upon the ryotts both of Rungpore and Dinagepore for non-payment, were in many instances of such a nature, that I would rather wish to draw a veil over them, than shock your feelings by the detail. But that nowever disagreeable the task may be to myself, it is absolutely necessary for the sake of justice, humanity, and the honor of government, that they should be exposed, to be prevented in future."

My lords, they began by winding cords round the fingers of the unhappy freeholders of those provinces, until they clung to and were almost incorporated with one another; and then they hammered wedges of iron between them, until, regardless of the cries of the sufferers, they had bruised to pieces and for ever crippled those poor, honest, innocent, laborious hands, which had never been raised to their mouths, but with a penurious and scanty proportion of the fruits of their own soil; but those fruits (denied to the wants of their own children) have for more than fifteen years past furnished the investment for our trade with China, and been sent annually out, and without recompense, to purchase for us that delicate meal, with which your lordships, and all this auditory, and all this country, have begun every day for these fifteen years at their expense. To those beneficent hands, that labor for our benefit, the return of the British government has been cords, and hammers, and wedges. But there is a place where these crippled and disabled hands will act with resistless power. What is it, that they will not pull down, when they are lifted to heaven against their oppressors? Then what can withstand such hands? Can the power, that crushed and destroyed them? Powerful in prayer, let us at least deprecate, and thus endeavor to secure ourselves from, the vengeance, which these mashed and disabled hands may pull down upon us. My lords, it is an awful consideration. Let us think of it.

But to pursue this melancholy but necessary detail. I am next to open to your lordships, what I am hereafter to prove, that the most substantial and leading yeomen, the responsible farmers, the parochial magistrates, and chiefs of villages, were tied two and two by the legs together; and their tormentors, throwing them with their heads downwards over a bar, beat them on the soles of the feet with ratans, until the nails fell from the toes; and then attacking them at their heads, as they hung downward, as before at their feet, they beat them with sticks and other instruments of blind fury, until the blood gushed out at their eyes, mouths, and noses.

Not thinking that the ordinary whips and cudgels, even so administered, were sufficient, to others (and often also to the same, who had suffered as I have stated) they applied, instead of ratan and bamboo, whips made of the branches of the bale tree; a tree full of sharp and strong thorns, which tear the skin and lacerate the flesh far worse than ordinary scourges.

For others, exploring with a searching and inquisitive malice stimulated by an insatiate rapacity, all the devious paths of nature for whatever is most unfriendly to man, they made rods of a plant highly caustic and poisonous, called *bechettea*, every

wound of which festers and gangrenes, adds double and treble to the present torture, leaves a crust of leprous sores upon the body, and often ends in the destruction of life itself.

At night, these poor innocent sufferers, these martyrs of avarice and extortion, were brought into dungeons; and in the season when nature takes refuge in insensibility from all the miseries and cares which wait on life, they were three times scourged, and made to reckon the watches of the night by periods and intervals of torment. They were then led out in the severe depth of winter, which there at certain seasons would be severe to any, to the Indians is most severe and almost intolerable,—they were led out before break of day, and, stiff and sore as they were with the bruises and wounds of the night, were plunged into water; and whilst their jaws clung together with the cold, and their bodies were rendered infinitely more sensible, the blows and stripes were renewed upon their backs; and then, delivering them over to soldiers, they were sent into their farms and villages to discover where a few handfuls of grain might be found concealed, or to extract some loan from the remnants of compassion and courage not subdued in those, who had reason to fear, that their own turn of torment would be next, that they should succeed them in the same punishment, and that their very humanity, being taken as a proof of their wealth, would subject them (as it did in many cases subject them) to the same inhuman tortures. After this circuit of the day through their plundered and ruined villages, they were remanded at night to the same prison; whipped, as before, at their return to the dungeon; and at morning whipped at their leaving it; and then sent as before to purchase, by begging in the day, the reiteration of the torture in the night. Days of menace, insult, and extortion;—nights of bolts, fetters, and flagellation succeeded to each other in the same round, and for a long time made up all the vicissitude of life to these miserable people.

But there are persons, whose fortitude could bear their own suffering; there are men, who are hardened by their very pains; and the mind, strengthened even by the torments of the body, rises with a strong defiance against its oppressor. They were assaulted on the side of their sympathy. Children were scourged almost to death in the presence of their parents. This was not enough. The son and father were bound close together, face to face, and body to body, and in that situation cruelly lashed together, so that the blow, which escaped the father, fell upon the son, and the blow, which missed the son, wound over the back of the parent. The circumstances were combined by so subtle a cruelty, that every stroke, which did not excruciate the

sense, should wound and lacerate the sentiments and affections of nature.

On the same principle, and for the same ends, virgins, who had never seen the sun, were dragged from the inmost sanctuaries of their houses; and in the open court of justice, in the very place where security was to be sought against all wrong and all violence, (but where no judge or lawful magistrate had long sat, but in their place the ruffians and hangmen of Warren Hastings occupied the bench,) these virgins, vainly invoking heaven and earth, in the presence of their parents, and whilst their shrieks were mingled with the indignant cries and groans of all the people, publicly were violated by the lowest and wickedest of the human race. Wives were torn from the arms of their husbands, and suffered the same flagitious wrongs, which were indeed hid in the bottoms of the dungeons, in which their honor and their liberty were buried together. Often they were taken out of the refuge of this consoling gloom, stripped naked, and thus exposed to the world, and then cruelly scourged; and in order that cruelty might riot in all the circumstances, that melt into tenderness the fiercest natures, the nipples of their breasts were put between the sharp and elastic sides of cleft bamboos. Here, in my hand, is my authority: for otherwise one would think it incredible. But it did not end there. Growing from crime to crime, ripened by cruelty for cruelty, these fiends, at length outraging sex, decency, nature, applied lighted torches and slow fire—(I cannot proceed for shame and horror!) these infernal furies planted death in the source of life, and where that modesty, which, more than reason, distinguishes men from beasts, retires from the view, and even shrinks from the expression, there they exercised and glutted their unnatural, monstrous, and nefarious cruelty,—there, where the reverence of nature, and the sanctity of justice, dares not to pursue, nor venture to describe their practices.

These, my lords, were sufferings, which we feel all in common, in India and in England, by the general sympathy of our common nature. But there were in that province (sold to the tormentors by Mr. Hastings,) things done, which, from the peculiar manners of India, were even worse than all I have laid before you; as the dominion of manners, and the law of opinion, contribute more to their happiness and misery than anything in mere sensitive nature can do.

The women thus treated lost their caste. My lords, we are not here to commend or blame the institutions and prejudices of a whole race of people, radicated in them by a long succession of ages, on which no reason or argument, on which no vicissitudes of things, no mixtures of men, or foreign conquest,

have been able to make the smallest impression. The aboriginal Gentû inhabitants are all dispersed into tribes or castes; each caste born to an invariable rank, rights, and descriptions of employment; so that one caste cannot by any means pass into another. With the Gentûs certain impurities or disgraces, though without any guilt of the party, infer loss of caste; and when the highest caste, that of Brahmin, which is not only noble but sacred, is lost, the person, who loses it, does not slide down into one lower but reputable—he is wholly driven from all honest society. All the relations of life are at once dissolved. His parents are no longer his parents; his wife is no longer his wife; his children, no longer his, are no longer to regard him as their father. It is something far worse than complete outlawry, complete attainder, and universal excommunication. It is a pollution even to touch him; and if he touches any of his old caste, they are justified in putting him to death. Contagion, leprosy, plague, are not so much shunned. No honest occupation can be followed. He becomes an *Halichore*, if (which is rare) he survives that miserable degradation.

Upon those, whom all the shocking catalogue of tortures I have mentioned could not make to flinch, one of the modes of losing caste for Brahmins, and other principal tribes, was practised. It was, to harness a bullock at the court door, and to put the Brahmin on his back, and to lead him through the towns, with drums beating before him. To intimidate others, this bullock, with drums, the instrument according to their ideas of outrage, disgrace, and utter loss of caste, was led through the country; and, as it advanced, the country fled before it. When any Brahmin was seized he was threatened with this pillory, and for the most part he submitted in a moment to whatever was ordered. What it was may be thence judged. But when no possibility existed of complying with the demand, the people by their cries sometimes prevailed on the tyrants to have it commuted for cruel scourging, which was accepted as mercy. To some Brahmins this mercy was denied, and the act of indelible infamy executed. Of these men one came to the company's commissioner with the tale, and ended with these melancholy words,—"I have suffered this indignity; my caste is lost; my life is a burden to me; I call for justice." He called in vain.

Your lordships will not wonder, that these monstrous and oppressive demands, exacted with such tortures, threw the whole province into despair. They abandoned their crops on the ground. The people, in a body, would have fled out of its confines; but bands of soldiers invested the avenues of the province, and, making a line of circumvallation, drove back

those wretches, who sought exile as a relief, into the prison of their native soil. Not suffered to quit the district, they fled to the many wild thickets, which oppression had scattered through it, and sought amongst the jungles, and dens of tygers, a refuge from the tyranny of Warren Hastings. Not able long to exist here, pressed at once by wild beasts and famine, the same despair drove them back; and seeking their last resource in arms, the most quiet, the most passive, the most timid of the human race, rose up in an universal insurrection; and, what will always happen in popular tumults, the effects of the fury of the people fell on the meaner and sometimes the reluctant instruments of the tyranny, who in several places were mas sacred. The insurrection began in Rungpore, and soon spread its fire to the neighboring provinces, which had been harassed by the same person with the same oppressions. The English chief in that province had been the silent witness, most probably the abettor and accomplice, of all these horrors. He called in first irregular, and then regular, troops, who by dreadful and universal military execution got the better of the impotent resistance of unarmed and undisciplined despair. I am tired with the detail of the cruelties of peace. I spare you those of a cruel and inhuman war, and of the executions, which, without law or process, or even the shadow of authority, were ordered by the English revenue chief in that province.

It has been necessary to lay these facts before you (and I have stated them to your lordships far short of their reality, partly through my infirmity, and partly on account of the odiousness of the task of going through things, that disgrace human nature) that you may be enabled fully to enter into the dreadful consequences, which attend a system of bribery and corruption in a governor-general. On a transient view, bribery is rather a subject of disgust than horror; the sordid practice of a venal, mean, and abject mind; and the effect of the crime seems to end with the act. It looks to be no more than the corrupt transfer of property from one person to another; at worst a theft. But it will appear in a very different light, when you regard the consideration, for which the bribe is given; namely, that a governor-general, claiming an arbitrary power in himself, for that consideration delivers up the properties, the liberties, and the lives of a whole people to the arbitrary discretion of any wicked and rapacious person, who will be sure to make good from their blood the purchase he has paid for his power over them. It is possible, that a man may pay a bribe merely to redeem himself from some evil. It is bad however to live under a power, whose violence has no restraint except in its avarice. But no man ever paid a bribe for a power to

charge and tax others, but with a view to oppress them. No man ever paid a bribe for the handling of the public money, but to peculate from it. When once such offices become thus privately and corruptly venal, the very worst men will be chosen (as Mr. Hastings has in fact constantly chosen the very worst,) because none but those, who do not scruple the use of any means, are capable, consistently with profit, to discharge at once the rigid demands of a severe public revenue, and the private bribes of a rapacious chief magistrate. Not only the worst men will be thus chosen, but they will be restrained by no dread whatsoever in the execution of their worst oppressions. Their protection is sure. The authority that is to restrain, to control, to punish them, is previously engaged; he has his retaining fee for the support of their crimes. Mr. Hastings never dared, because he could not, arrest oppression in its course, without drying up the source of his own corrupt emolument. Mr. Hastings never dared, after the fact, to punish extortion in others, because he could not, without risking the discovery of bribery in himself. The same corruption, the same oppression, and the same impunity, will reign through all the subordinate gradations.

A fair revenue may be collected without the aid of wicked, violent, and unjust instruments. But, when once the line of just and legal demand is transgressed, such instruments are of absolute necessity; and they comport themselves accordingly. When we know, that men must be well paid (and they ought to be well paid) for the performance of honorable duty, can we think, that men will be found to commit wicked, rapacious, and oppressive acts with fidelity and disinterestedness, for the sole emolument of dishonest employers? No; they must have their full share of the prey, and the greater share as they are the nearer and more necessary instruments of the general extortion. We must not therefore flatter ourselves, when Mr. Hastings takes 40,000*l.* in bribes for Dinagepore and its annexed provinces, that from the people nothing more than 40,000*l.* is extorted. I speak within compass, four times forty must be levied on the people; and these violent sales, fraudulent purchases, confiscations, inhuman and unutterable tortures, imprisonment, irons, whips, fines, general despair, general insurrection, the massacre of the officers of revenue by the people, the massacre of the people by the soldiery, and the total waste and destruction of the finest provinces in India, are things of course; and all a necessary consequence involved in the very substance of Mr. Hastings's bribery.

I, therefore, charge Mr. Hastings with having destroyed, for

private purposes, the whole system of government by the six provincial councils, which he had no right to destroy.

I charge him with having delegated to others that power. which the act of parliament had directed him to preserve un alienably in himself.

I charge him with having formed a committee to be mere instruments and tools, at the enormous expense of 62,000*l.* per annum.

I charge him with having appointed a person their dewan, to whom these Englishmen were to be subservient tools; whose name, to his own knowledge, was by the general voice of India, by the general recorded voice of the company, by recorded official transactions, by everything, that can make a man known, abhorred, and detested, stamped with infamy; and with giving him the whole power, which he had thus separated from the council-general, and from the provincial councils.

I charge him with taking bribes of Gunga Govin Sing.

I charge him with not having done that bribe-service, which fidelity even in iniquity requires at the hands of the worst of men.

I charge him with having robbed those people, of whom he took the bribes.

I charge him with having fraudulently alienated the fortunes of widows.

I charge him with having, without right, title, or purchase, taken the lands of orphans, and given them to wicked persons, under him.

I charge him with having removed the natural guardians of a minor rajah, and with having given that trust to a stranger, Debi Sing, whose wickedness was known to himself and all the world; and by whom the rajah, his family, and dependants, were cruelly oppressed.

I charge him with having committed to the management of Debi Sing three great provinces; and thereby, with having wasted the country, ruined the landed interest, cruelly harassed the peasants, burnt their houses, seized their crops, tortured and degraded their persons, and destroyed the honor of the whole female race of that country.

In the name of the Commons of England, I charge all this villany upon Warren Hastings, in this last moment of my application to you.

My lords, what is it, that we want here to a great act of national justice? Do we want a cause, my lords? You have the cause of oppressed princes, of undone women of the first rank, of desolated provinces, and of wasted kingdoms.

Do you want a criminal, my lords? When was there so

much iniquity ever laid to the charge of any one?—No, my lords, you must not look to punish any other such delinquent from India.—Warren Hastings has not left substance enough in India to nourish such another delinquent.

My lords, is it a prosecutor you want?—You have before you the Commons of Great Britain as prosecutors; and, I believe, my lords, that the sun, in his beneficent progress round the world, does not behold a more glorious sight than that of men, separated from a remote people by the material bounds and barriers of nature, united by the bond of a social and moral community;—all the Commons of England resenting, as their own, the indignities and cruelties, that are offered to all the people of India.

Do we want a tribunal? My lords, no example of antiquity, nothing in the modern world, nothing in the range of human imagination, can supply us with a tribunal like this. My lords, here we see virtually in the mind's eye that sacred majesty of the crown, under whose authority you sit, and whose power you exercise. We see in that invisible authority, what we all feel in reality and life, the beneficent powers and protecting justice of his majesty. We have here the heir apparent to the crown, such as the fond wishes of the people of England wish an heir apparent of the crown to be. We have here all the branches of the royal family in a situation between majesty and subjection, between the sovereign and the subject,—offering a pledge in that situation for the support of the rights of the crown, and the liberties of the people, both which extremities they touch. My lords, we have a great hereditary peerage here; those, who have their own honor, the honor of their ancestors, and of their posterity, to guard; and who will justify, as they have always justified, that provision in the constitution, by which justice is made an hereditary office. My lords, we have here a new nobility, who have risen, and exalted themselves by various merits, by great military services, which have extended the fame of this country from the rising to the setting sun: we have those, who by various civil merits and various civil talents have been exalted to a situation, which they well deserve, and in which they will justify the favor of their sovereign, and the good opinion of their fellow subjects; and make them rejoice to see those virtuous characters, that were the other day upon a level with them, now exalted above them in rank, but feeling with them in sympathy what they felt in common with them before. We have persons exalted from the practice of the law, from the place in which they administered high, though subordinate, justice, to a seat here, to enlighten with their knowledge, and to strengthen with their

votes those principles, which have distinguished the courts, in which they have presided.

My lords, you have here also the lights of our religion; you have the bishops of England. My lords, you have that true image of the primitive church in its ancient form, in its ancient ordinances, purified from the superstitions and the vices which a long succession of ages will bring upon the best institutions. You have the representatives of that religion, which says, that their God is love, that the very vital spirit of their institution is charity; a religion, which so much hates oppression, that, when the God, whom we adore, appeared in human form, he did not appear in a form of greatness and majesty, but in sympathy with the lowest of the people,—and thereby made it a firm and ruling principle, that their welfare was the object of all government; since the person, who was the Master of Nature, chose to appear himself in a subordinate situation. These are the considerations, which influence them, which animate them, and will animate them, against all oppression; knowing, that He, who is called first among them, and first among us all, both of the flock that is fed, and of those who feed it, made Himself "the servant of all."

My lords, these are the securities, which we have in all the constituent parts of the body of this house. We know them, we reckon, we rest upon them, and commit safely the interests of India and of humanity into your hands. Therefore, it is with confidence, that, ordered by the Commons,

I impeach Warren Hastings, Esquire, of high crimes and misdemeanors.

I impeach him in the name of the Commons of Great Britain in parliament assembled, whose parliamentary trust he has betrayed.

I impeach him in the name of all the Commons of Great Britain, whose national character he has dishonored.

I impeach him in the name of the people of India, whose laws, rights, and liberties he has subverted; whose properties he has destroyed, whose country he has laid waste and desolate.

I impeach him in the name, and by virtue, of those eternal laws of justice, which he has violated.

I impeach him in the name of human nature itself, which he has cruelly outraged, injured, and oppressed in both sexes, in every age, rank, situation, and condition of life.

MR. ERSKINE'S SPEECH,

IN

DEFENCE OF THE LIBERTY OF THE PRESS,

DELIVERED

ON THE TRIAL OF THOMAS PAINE FOR A LIBEL.

GENTLEMEN OF THE JURY,

The Attorney General, in that part of his address which referred to a letter, supposed to have been written to him from France, exhibited signs of strong sensibility and emotion.—I do not, I am sure, charge him with acting a part to seduce you;—on the contrary, I am persuaded, from my own feelings, and from my acquaintance with my friend from our childhood upwards, that HE expressed himself as he felt. But, gentlemen, if he felt those painful embarrassments, you may imagine what MINE must be:—he can only feel for the august character whom he represents in this place, as a subject for his Sovereign, too far removed by custom from the intercourses which generate affections, to produce any other sentiments than those that flow from a relation common to us all; but it will be remembered, that I stand in the same relation towards another great person more deeply implicated by this supposed letter; who, not restrained from the cultivation of personal attachments by those qualifications which must always secure them, has exalted my duty to a Prince, into a warm and honest affection between man and man. Thus circumstanced, I certainly should have been glad to have had an earlier opportunity of knowing correctly the contents of this letter, and whether (which I positively deny) it proceeded from the defendant. Coming thus suddenly upon us, I see but too plainly the impression it has made upon *you* who are to try the cause, and I feel its weight upon *myself*, who am to conduct it; but this shall neither detach me from my duty, nor enervate me (if I can help it) in the discharge of it.

If the Attorney General be well founded in the commentaries he has made to you upon the book which he prosecutes;—if he be warranted by the law of England, in repressing its circulation, from the illegal and dangerous matters contained in it:—if that suppression be, as he avows it, and as in common sense it must be, the sole object of the prosecution, the public has

great reason to lament that this letter should have been at all brought into the service of the cause:—It is no part of the charge upon the record;—it had no existence for months after the work was composed and published;—it was not written by the defendant, if written by him at all, till after he had been in a manner insultingly expelled from the country by the influence of government; it was not even written till he had become the subject of another country. It cannot, therefore, by any fair inference decipher the mind of the author when he composed his work: still less can it affect the construction of the language in which it is written. The introduction of this letter at all is, therefore, not only a departure from the charge, but a dereliction of the object of the prosecution, which is to condemn *the book*:—since, if the condemnation of the author is to be obtained, *not by the work itself*, but by *collateral matter* not even existing when it was written, nor known to its various publishers throughout the kingdom, how can a verdict upon *such* grounds condemn the work, or criminate *other* publishers, strangers to the collateral matter on which the conviction may be obtained to-day? I maintain, therefore, upon every principle of sound policy, as it affects the interests of the Crown, and upon every rule of justice, as it affects the author of The Rights of Man, that the letter should be wholly dismissed from your consideration.

Gentlemen, the Attorney General has thought it necessary to inform you, that a rumor had been spread, and had reached his ears, that he only carried on the prosecution as a *public* prosecutor, but without the concurrence of his own judgment; and therefore to add the just weight of his *private* character to his public duty, and to repel what he thinks a calumny, he tells you that he should have deserved to have been driven from society, if he had not arraigned the work and the author before you. Here too we stand in situations very different:—I have no doubt of the existence of such a rumor, and of its having reached his ears, because he says so; but for the narrow circle in which any rumor, personally implicating my learned friend's character, has extended, I might appeal to the multitudes who surround us, and ask, which of them all, except the few connected in office with the crown, ever heard of its existence. But with regard to myself, every man within hearing at this moment, nay, the whole people of England, have been witnesses to the calumnious clamor that, by every art, has been raised and kept up against me: in every place, where business or pleasure collects the public together, day after day my name and character have been the topics of injurious reflection. And for what?—only for not having shrunk from the discharge of a

duty, which no personal advantage recommended, and which a thousand difficulties repelled. But, Gentlemen, I have no complaint to make, either against the printers of these libels, nor even against their authors:—the greater part of them, hurried perhaps away by honest prejudices, may have believed they were serving their *country* by rendering *me* the object of its suspicion and contempt; and if there have been amongst them others who have mixed in it from personal malice and unkindness, I thank God I can forgive *them* also.—Little indeed did they know me, who thought that such calumnies would influence my conduct: I will for ever, at all hazards, assert the dignity, independence, and integrity of the ENGLISH BAR; without which, impartial justice, the most valuable part of the English constitution, can have no existence. From the moment that any advocate can be permitted to say, that he *will* or will *not* stand between the crown and the subject arraigned in the court where he daily sits to practise, from that moment the liberties of England are at an end. If the advocate refuses to defend, from what *he may think* of the charge or of the defence, he assumes the character of the Judge; nay, he assumes it before the hour of judgment; and in proportion to his rank and reputation, puts the heavy influence of, perhaps, a mistaken opinion into the scale against the accused, in whose favor the benevolent principle of English law makes all presumptions and which commands the very judge to be his counsel.

Gentlemen, it is now my duty to address myself without digression to the defence.

The first thing which presents itself in the discussion of any subject, is to state distinctly, and with precision, what the question is, and, where prejudice and misrepresentation have been exerted, to distinguish it accurately from what it is NOT. The question then is NOT, whether the constitution of our fathers, under which we live—under which I present myself before you, and under which alone you have any jurisdiction to hear me—be or be not preferable to the constitution of America or France, or any other human constitution. For upon what principle can a court, constituted by the authority of any government, and administering a positive system of law, under it, pronounce a decision against the constitution which creates its authority; or the rule of action which its jurisdiction is to enforce?—The common sense of the most uninformed person must revolt at such an absurd supposition.

I have no difficulty, therefore, in admitting, that if by accident some or all of you were alienated in opinion and affection from the forms and principles of the English government, and were impressed with the value of that unmixed representative

constitution which this work recommends and inculcates, you could not, *on that account*, acquit the defendant. Nay, to speak out plainly, I freely admit that even if you were avowed enemies to monarchy, and devoted to republicanism, you would be nevertheless bound by your oaths, as a jury sworn to administer justice according to the English law, to convict the author of The Rights of Man, if it were brought home to your consciences, that he had exceeded those widely extended bounds which the ancient wisdom and liberal policy of the English constitution have allotted to the range of a free press. I freely concede this, because you have no jurisdiction to judge either the author or the work, by any rule but that of English law, which is the source of your authority. But having made this large concession, it follows, by a consequence so inevitable as to be invulnerable to all argument or artifice, that if, on the other hand, you should be impressed (which I know you to be) not only with a dutiful regard, but with an enthusiasm, for the whole form and substance of your own government; and though you should think that this work, in its circulation amongst classes of men unequal to political researches, may tend to alienate opinion; still you cannot, *upon such grounds*, without a similar breach of duty, convict the defendant of a libel,—unless he has clearly stepped beyond that extended range of communication which the same ancient wisdom and liberal policy of the British constitution has allotted for the liberty of the press.

Gentlemen, I admit, with the Attorney General, that in every case where a court has to estimate the quality of a writing, the *mind* and *intention* of the writer must be taken into the account;—the *bona* or *mala fides*, as lawyers express it, must be examined: for a writing may undoubtedly proceed from a motive, and be directed to a purpose, not to be deciphered by the mere construction of the thing written. But wherever a writing is arraigned as seditious or slanderous, not upon its ordinary construction in language, nor from the necessary consequences of its publication, under *any* circumstances and at *all* times, but that the criminality springs from some *extrinsic matter*, not visible upon the page itself, nor universally operative, but capable only of being connected with it by evidence, so as to demonstrate the effect of the publication, and the design of the publisher; such a writing, not libellous PER SE, cannot be arraigned as the author's work is arraigned upon the record before the court. I maintain, without the hazard of contradiction, that the law of England positively requires, for the security of the subject, that every charge of a libel complicated with *extrinsic facts and circumstances, dehors the writing*, must

appear literally upon the record by an averment of such extrinsic facts and circumstances, that the defendant may know what crime he is called upon to answer, and how to stand upon his defence. What crime is it that the defendant comes to answer for to-day?—what is the notice that I, who am his counsel, have from this parchment of the crime alleged against him?—I come to defend his having written *this book*. The record states nothing else:—the general charge of sedition in the introduction is notoriously paper and packthread; because the innuendoes cannot enlarge the sense or natural construction of the text. The record does not state any one *extrinsic fact or circumstance*, to render the work criminal, at *one* time more than *another*; it states no peculiarity of time or season, or intention, not proveable from the writing itself, which is the naked charge upon record. There is nothing therefore which gives you any jurisdiction beyond the construction of the *work itself*; and you cannot be justified in finding it criminal because published at *this* time, unless it would have been a criminal publication under any circumstances, or at *any other* time.

The law of England then, both in its forms and substance, being the only rule by which the author or the work can be justified or condemned, and the charge upon the record being the naked charge of a libel, the cause resolves itself into a question of the deepest importance to us all, THE NATURE AND EXTENT OF THE LIBERTY OF THE ENGLISH PRESS.

But before I enter upon it, I wish to fulfil a duty to the defendant, which, if I do not deceive myself, is at this moment peculiarly necessary to his impartial trial.—If an advocate entertains sentiments injurious to the defence he is engaged in, he is not only justified, but bound in duty, to conceal them; so, on the other hand, if his own genuine sentiments, or anything connected with his character or situation, can add strength to his professional assistance, he is bound to throw them into the scale. In addressing myself, therefore, to gentlemen not only zealous for the honor of English government, but *visibly* indignant at any attack upon its principles, and who would, perhaps be impatient of arguments from a suspected quarter, I give my client the benefit of declaring, that I am, and ever have been, attached to the genuine principles of the British government; and that, however the court or you may reject the application, I defend him upon principles not only consistent with its permanence and security, but without the establishment of which it never could have had an existence.

The proposition which I mean to maintain as the basis of the liberty of the press, and without which it is an empty sound, is this;—that every man, not intending to mislead, but

seeking to enlighten others with what his own reason and conscience, however erroneously, have dictated to him as truth, may address himself to the universal reason of a whole nation, either upon the subject of governments in general, or upon that of our own particular country:—that he may analyze the principles of its constitution,—point out its errors and defects,—examine and publish its corruptions,—warn his fellow-citizens against their ruinous consequences, and exert his whole faculties in pointing out the most advantageous changes in establishments which he considers to be radically defective, or sliding from their object by abuse.—All this every subject of this country has a right to do, if he contemplates only what he thinks would be for its advantage, and but seeks to change the public mind by the conviction which flows from reasonings dictated by conscience.

If, indeed, he writes *what he does not think*;—if, contemplating the misery of others, he wickedly condemns what his own understanding approves;—or, even admitting his real disgust against the government or its corruptions, if he *calumniates living magistrates*,—or holds out to individuals, that they have a right to run before the public mind in their *conduct*,—that they may oppose by contumacy or force what private reason only disapproves;—that they may disobey the law, because their judgment condemns it;—or resist the public will, because they honestly wish to change it—he is then a criminal upon every principle of rational policy, as well as upon the immemorial precedents of English justice; because such a person seeks to disunite individuals from their duty to the whole, and excites to overt acts of *misconduct* in a part of the community, instead of endeavoring to change, by the impulse of reason, that universal assent which, in this and in every country, constitutes the law for all.

I have therefore no difficulty in admitting, that, if, upon an attentive perusal of this work, it shall be found that the Defendant has promulgated any doctrines which excite individuals to withdraw from their subjection to the law by which the whole nation consents to be governed;—if his book shall be found to have warranted or excited that unfortunate criminal who appeared here yesterday to endeavor to relieve himself from imprisonment, by the destruction of a prison, or dictated to him the language of defiance which ran through the whole of his defence;—if throughout the work there shall be found any syllable or letter, which strikes at the security of property, or which hints that anything less than *the whole nation* can constitute the law, or that the law, be it what it may, is not the

inexorable rule of action for every individual, I willingly yield him up to the justice of the Court.

Gentlemen, I say, in the name of Thomas Paine, and in his words as author of the Rights of Man, as written in the very volume that is charged with seeking the destruction of property,

"The end of all political associations is, the preservation of the rights of man, which rights are liberty, property, and security; that the nation is the source of all sovereignty derived from it: the right of property being secured and inviolable, no one ought to be deprived of it, except in cases of evident public necessity, legally ascertained, and on condition of a previous just indemnity."

These are undoubtedly the rights of man—the rights for which all governments are established—and the only rights Mr. Paine contends for; but which he thinks (no matter whether right or wrong) are better to be secured by a republican constitution than by the forms of the English government. He instructs me to admit, that, when government is once constituted, no individuals, without rebellion, can withdraw their obedience from it,—that all attempts to excite them to it are highly criminal, for the most obvious reasons of policy and justice,—that nothing short of the will of a WHOLE PEOPLE can change or affect the rule by which a nation is to be governed —and that no private opinion, however honestly inimical to the forms or substance of the law, can justify resistance to its authority, while it remains in force. The author of the Rights of Man not only admits the truth of all this doctrine, but he consents to be convicted, and I also consent for him, unless his work shall be found studiously and painfully to inculcate these great principles of government which it is charged to have been written to destroy.

Let me not, therefore, be suspected to be contending, that it is lawful to write a book pointing out defects in the English government, and exciting individuals to destroy its sanctions and to refuse obedience. But, on the other hand, I do contend that it is lawful to address the English nation on these momentous subjects; for had it not been for this unalienable right (thanks be to God and our fathers for establishing it,) how should we have had this constitution which we so loudly boast of?—If, in the march of the human mind, no man could have gone before the establishments of the time he lived in, how could our establishment, by reiterated changes, have become what it is?—If no man could have awakened the public mind to errors and abuses in our government, how could it have passed on from stage to stage, through reformation and revolution, so as

to have arrived from barbarism to such a pitch of happiness and perfection, that the Attorney-General considers it as profanation to touch it farther, or to look for any future amendment?

In this manner power has reasoned in every age:—government, in *its own estimation*, has been at all times a system of perfection; but a free press has examined and detected its errors, and the people have from time to time reformed them. This freedom has alone made our government what it is; this freedom alone can preserve it; and therefore, under the banners of that freedom, to-day I stand up to defend Thomas Paine.—But how, alas! shall this task be accomplished?—How may I expect from you what human nature has not made man for the performance of?—How am I to address your reasons, or ask them to pause, amidst the torrent of prejudice which has hurried away the public mind on the subject you are to judge?

Was any Englishman ever so brought as a criminal before an English court of justice?—If I were to ask you, gentlemen of the jury, what is the choicest fruit that grows upon the tree of English liberty, you would answer, SECURITY UNDER THE LAW If I were to ask the whole people of England, the return they looked for at the hands of government, for the burdens under which they bend to support it, I should still be answered, SECURITY UNDER THE LAW; or, in other words, an impartial administration of justice. So sacred, therefore, has the freedom of trial been ever held in England;—so anxiously does Justice guard against every possible bias in her path, that if the public mind has been locally agitated upon any subject in judgment, the forum has either been changed, or the trial postponed. The circulation of any paper that brings, or can be supposed to bring, prejudice, or even well-founded knowledge, within the reach of a British tribunal, *on the spur of an occasion*, is not only highly criminal, but defeats itself, by leading to put off the trial which its object was to pervert. On this principle, the noble and learned judge will permit me to remind him, that on the trial of the Dean of St. Asaph for a libel, or rather when he was brought to trial, the circulation of books by a society favorable to his defence, was held by his lordship, as chief justice of Chester, to be a reason for not trying the cause although they contained no matter relative to the dean, nor to the object of his trial; being only extracts from ancient authors of high reputation, on the general rights of juries to consider the innocence as well as the guilt of the accused; yet still as the recollection of these rights was pressed forward *with a view to affect the proceedings*, the proceedings were postponed.

Is the defendant then to be the only exception to these admirable provisions?—Is the English law to judge *him*, stript of the armor with which its universal justice encircles *all others*?—Shall we, in the very act of judging him for detracting from the English government, furnish him with ample matter for just reprobation, instead of detraction?—Has not his cause been prejudged through a thousand channels?—Has not the work before you been daily and publicly reviled, and his person held up to derision and reproach?—Has not the public mind been excited, by crying down the very phrase and idea of the Rights of Man? Nay, have not associations of gentlemen, I speak it with regret, because I am persuaded, from what I know of some of them, that they, amongst them at least, thought they were serving the public;—yet have they not, in utter contempt and ignorance of that constitution of which they declare themselves to be the guardians, published the grossest attacks upon the defendant?—Have they not, even while the cause has been standing here for immediate trial, published a direct protest against the very work now before you; advertising in the same paper, though under the general description of seditious libels, a reward on the conviction of any person who should dare to sell the book itself, to which their own publication was an answer?—The Attorney General has spoken of a forced circulation of this work;—but how have these prejudging papers been circulated?—we all know how. They have been thrown into our carriages in every street;—they have met us at every turnpike;—and they lie in the areas of all our houses. To complete the triumph of prejudice, that high tribunal, of which I have the honor to be a member (my learned friends know what I say to be true,) has been drawn into this vortex of slander; and some of its members, I must not speak of the House itself, have thrown the weight of their stations into the same scale. By all these means, I maintain that this cause has been prejudged.

It may be said, that I have made no motion to put off the trial for these causes, and that courts of themselves take no cognizance of what passes elsewhere, without facts laid before them. Gentlemen, I know that I should have had equal justice from the Court, if I had brought myself within the rule. But when should I have been better in the present aspect of things? and I only remind you therefore of all these hardships, that you may recollect, that your judgment is to proceed upon that alone which meets you *here*, upon *the evidence* in the cause, and not upon suggestions destructive of every principle of justice.

Having disposed of these foreign prejudices, I hope you will as little regard some arguments that have been offered to

you in court. The letter which has been so repeatedly pressed upon you, ought to be dismissed even from your recollection.—I have already put it out of the question, as having been written long subsequent to the book, and as being a libel on the king, which no part of the information charges, and which may hereafter be prosecuted as a distinct offence. I consider that letter besides, and indeed have always heard it treated, as a forgery, contrived to injure the merits of the cause, and to embarrass *me personally* in its defence. I have a right so to consider it, because it is unsupported by anything similar at an earlier period. The defendant's whole deportment, previous to the publication, has been wholly unexceptionable:—he properly desired to be given up as the author of the book, if any inquiry should take place concerning it; and he is not affected in evidence, directly or indirectly, with any illegal or suspicious conduct; not even with having uttered an indiscreet or taunting expression, nor with any one matter or thing, inconsistent with the duty of the best subject in England. His *opinions* indeed were adverse to our system;—but I maintain that OPINION is free, and that CONDUCT alone is amenable to the law.

You are next desired to judge of the author's mind and intention, by the modes and extent of the circulation of his work. The FIRST Part of the Rights of Man, Mr. Attorney General tells you, he did not prosecute, although it was in circulation through the country for a year and a half together, because it seems it circulated only amongst what he styles the judicious part of the public, who possessed in their capacities and experience an antidote to the poison; but that with regard to the SECOND Part now before you, its circulation had been forced into every corner of society; had been printed and reprinted for cheapness even upon whited brown paper, and had crept into the very nurseries of children, as a wrapper for their sweetmeats.

In answer to this statement, which after all stands only upon Mr. Attorney General's own assertion, unsupported by any kind of proof (no witness having proved the author's personal interference with the sale,) I still maintain, that, if he had the most anxiously promoted it, the question would remain exactly THE SAME: the question would still be, whether at the time when Paine composed his work, and promoted the most extensive purchase of it, he believed or disbelieved what he had written,—and whether he contemplated the happiness or the misery of the English nation, to which it is addressed; and whichever of these intentions may be evidenced to your judgments upon reading the book itself, I confess I am utterly at a loss to comprehend how a writer can be supposed to mean something

different from what he has written, by proof of an anxiety (common I believe to all authors) that his work should be generally read. Remember, I am not asking your opinions of the *doctrines themselves*;—you have given them already pretty visibly since I began to address you;—but I shall appeal not only to you, but to those who, without our leave, will hereafter judge, and without appeal, of all that we are doing to-day,—whether upon the matter which I hasten to lay before you, you can refuse to pronounce, that from his education—from the accidents and habits of his life—from the time and occasion of the publication—from the circumstances attending it—and from every line and letter of the work itself, and from all his other writings, his conscience and understanding (*no matter whether erroneously or not*) were deeply and solemnly impressed with the matters contained in his book,—that he addressed it to the reason of the nation at large, and not to the passions of individuals,—and that, in the issue of its influence, he contemplated only what appeared to *him* (*though it may not to us*) to be the interest and happiness of England, and of the whole human race. In drawing the one or the other of these conclusions, the book stands first in order, and it shall now speak for itself.

The Attorney General throughout the whole course of his address to you (I knew it would be so,) has avoided the most distant notice or hint of any circumstance having led to the appearance of the author in the political world, after a silence of so many years:—he has not even pronounced, or even glanced at the name of Mr. Burke,—but has left you to take it for granted that the defendant volunteered this delicate and momentous subject, and, without being led to it by the provocation of political controversy, had seized a favorable moment to stigmatize, from mere malice, and against his own confirmed opinions, the constitution of this country.

Gentlemen, my learned friend knows too well my respect and value for him to suppose that I am charging him with a wilful suppression; I know him to be incapable of it; he knew it would come from me; he will permit me, however, to lament that it should have been left for me to inform you, at this late period of the cause, that not only the work before you, but the First Part, of which it is a natural continuation, were written *avowedly and upon the face of them*, IN ANSWER TO MR. BURKE They were written besides under circumstances to be explained hereafter, in the course of which explanation I may have occasion to cite a few passages from the works of that celebrated person. And I shall speak of him with the highest respect;—for, with whatever contempt he may delight to look down upon my humble talents,—however he may disparage the principle-

which direct my public conduct, he shall never force me to forget the regard which this country owes to him, for the writings which he has left upon record as an inheritance to our most distant posterity. After the gratitude which we owe to God for the divine gifts of reason and understanding, our next thanks are due to those from the fountains of whose enlightened minds they are fed and fructified: but pleading, as I do, the cause of freedom of opinions, I shall not give offence by remarking that this great author has been thought to have changed some of his: and, if Thomas Paine had not thought so, I should not now be addressing you, because the book which is my subject would never have been written. Who may be right and who in the wrong, in the contention of doctrines, I have repeatedly disclaimed to be the question; I can only say that Mr. Paine may be right THROUGHOUT, but that Mr. Burke CANNOT; —Mr. Paine has been UNIFORM in *his* opinions, but Mr. Burke HAS NOT; Mr. Burke can only be right in part; but, should Mr. Paine be even mistaken in the whole, still I am not removed from the principle of his defence. My defence has nothing to do with the rectitude of his doctrines. I admit Mr. Paine to be a republican;—you shall soon see what made him one:—I do not seek to shade or qualify his attack upon our constitution; I put my defence on no such matter,—he undoubtedly means to declare it to be defective in its forms, and contaminated with abuses, which, in his judgment, will one day or other bring on the ruin of us all:—it is in vain to mince the matter;—this is the scope of his work. But still, if it contain no attack upon the King's Majesty, nor upon any other LIVING MAGISTRATE;—if it excite to no resistance to magistracy, but, on the contrary, if it even studiously inculcate obedience, then, whatever may be its defects, the question continues as before, and ever must remain an unmixed question of the liberty of the press. I have therefore considered it as no breach of professional duty, nor injurious to the cause I am defending, to express my own admiration of the real principles of our constitution;—a constitution which I hope may never give way to any other,—a constitution which has been productive of many benefits, and which will produce many more hereafter, if we have wisdom enough to pluck up the weeds that grow in the richest soils and amongst the brightest flowers. I agree with the merchants of London, in a late declaration, that the English government is equal to the reformation of its own abuses; and, as an inhabitant of the city, I would have signed it, if I had known, *of my own knowledge*, the facts recited in its preamble; but abuses the English constitution unquestionably has, which call loudly for reformation, the existence of which has been the theme of our

greatest statesmen, which have too plainly formed the principles of the defendant, and may have led to the very conjuncture which produced his book.

Gentlemen, we all but too well remember the calamitous situation in which our country stood but a few years ago,—a situation which no man can look back upon without horror, nor feel himself safe from relapsing into again, while the causes remain which produced it. The event I allude to you must know to be the American war, and the still existing causes of it, the corruptions of this government.—In those days, it was not thought virtue by the patriots of England to conceal the existence of them from the people;—but then, as now, authority condemned them as disaffected subjects, and defeated the ends they sought by their promulgation.

Gentlemen, in that great and calamitous conflict Edmund Burke and Thomas Paine fought in the same field of reason together; but with very different successes. Mr. Burke spoke to a Parliament in England, such as Sir George Saville describes it, having no ears but for sounds that flattered its corruptions. Mr. Paine, on the other hand, spoke TO A PEOPLE;—reasoned with them,—told them that they were bound by no subjection to any sovereignty, farther than their own benefit connected them; and by these powerful arguments prepared the minds of the American people for that GLORIOUS, JUST, and HAPPY revolution.

Gentlemen, I have a right to distinguish it by these epithets, because I aver that at this moment there is as sacred a regard to property;—as inviolable a security to all the rights of individuals;—lower taxes;—fewer grievances:—less to deplore, and more to admire, in the constitution of America, than that of any other country under heaven. I wish indeed to except our own, but I cannot even do that, till it shall be purged of those abuses which, though they obscure and deform the surface, have not as yet, *thank God*, destroyed the vital parts.

Why then is Mr. Paine to be calumniated, and reviled, because, out of a people consisting of near three millions, *he alone* did not remain attached *in opinion* to a monarchy? Remember, that all the blood which was shed in America, and to which he was for years a melancholy and indignant witness, was shed by the authority of the crown of Great Britain, under the influence of a Parliament, such as Sir George Saville has described it; and such as Mr. Burke himself will be called upon by and by in more glowing colors to paint it. How then can it be wondered at, that Mr. Paine should return to this country in his heart a republican?—Was he not equally a republican when he wrote Common Sense?—Yet that volume has been

sold without restraint or prosecution in every shop in England ever since, and which nevertheless (*I appeal to the book, which I have in Court, and which is in everybody's hands*) contains every one principle of government, and every abuse in the British constitution, which is to be found in the Rights of Man. Yet Mr. Burke himself saw no reason to be alarmed at that publication, nor to cry down its contents; even when America, which was swayed by it, was in arms against the crown of Great Britain.

Gentlemen, the consequences of this mighty revolution are too notorious to require illustration. No audience would sit to *hear* (what everybody has *seen* and *felt*,) how the independence of America notoriously produced, not by remote and circuitous effect, but directly and palpably, the revolutions which now agitate Europe, and which portend such mighty changes over the face of the earth.—Let governments take warning.—The revolution in France was the consequence of her incurably corrupt and profligate government. God forbid that I should be thought to lean, by this declaration, upon her unfortunate monarch,—bending, perhaps at this moment, under afflictions which my heart sinks within me to think of:—when I speak with detestation of the former politics of the French court, I fasten as little of them upon that fallen and unhappy prince, as I impute to our gracious Sovereign the corruptions of our own. I desire, indeed, in the distinctest manner, to be understood that I mean to speak of his Majesty, not only with that obedience and duty which I owe to him as a subject, but with that justice which I think is due to him from all men who examine his conduct either in public or private life.

Gentlemen, Mr. Paine happened to be in England when the French revolution took place, and, notwithstanding what he must be supposed and allowed from his own history to have felt upon such a subject, he remained wholly silent and inactive. The people of this country, too, appeared to be indifferent spectators of the animating scene. They saw, without visible emotion,—despotism destroyed, and the King of France, by his own consent, become the first magistrate of a free people. Certainly, at least, it produced none of those effects which are so deprecated by government at present; nor, most probably, ever would, if it had not occurred to the celebrated person whose name I must so often mention, voluntarily to provoke the subject:—a subject which, if dangerous to be discussed, ought not have led to the discussion of: for, surely, it is not to be endured, that any private man shall publish a creed for a whole nation;—shall tell us that we are not to think for ourselves,—shall impose his own fetters upon the human mind —shall dogmatize at discretion—and yet that no man shall sit

down to answer him without being guilty of a libel. I assert, that if it be a libel to mistake our constitution—to attempt the support of it by means that tend to destroy it—and to choose the most dangerous season for doing so, Mr. Burke is that libeller; but not therefore the object of a criminal prosecution: —whilst I am defending the motives of one man, I have neither right nor disposition to criminate the motives of another. All I contend for, is a fact that cannot be controverted, viz. that *this officious interference was the origin of Mr. Paine's book.* I put my cause upon its being the origin of it—the avowed origin—as will abundantly appear from the introduction and preface to both Parts, and from the whole body of the work; nay, from the very work of Mr. Burke himself, to which both of them are answers.

For the history of that celebrated work, I appeal to itself.

When the French revolution had arrived at some of its early stages, a few, and but a few persons, (not to be named when compared with the nation) took a visible interest in these mighty events;—an interest well worthy of Englishmen. They saw a pernicious system of government which had led to desolating wars, and had been for ages the scourge of Great Britain, giving way to a system which seemed to promise harmony and peace amongst nations. They saw this with virtuous and peaceable satisfaction; and a reverend divine, eminent for his eloquence, recollecting that the issues of life are in the hands of God, saw no profaneness in mixing the subject with public thanksgiving;—by reminding the people of this country of their own glorious deliverance in former ages. It happened also, that a society of gentlemen, France being then a neutral nation, and her own monarch swearing almost daily upon her altars to maintain the new constitution, thought they infringed no law by sending a general congratulation. Their numbers, indeed, were very inconsiderable; so much so, that Mr. Burke, with more truth than wisdom, begins his volume with a sarcasm upon their insignificance:

"Until very lately he had never heard of such a club. It certainly never occupied a moment of his thoughts: nor, he believed, those of any person out of their own set."

Why then make their proceedings the subject of alarm throughout England?—There had been no prosecution against them, nor any charge founded even upon suspicion of disaffection against any of their body. But Mr. Burke thought it was reserved for his eloquence to whip these curs of faction to their kennels. How he has succeeded, I appeal to all that has happened since the introduction of his schism in the British Empire, by giving to the King, whose title was questioned by no

man, a title which it is his Majesty's most solemn interest to disclaim.

After having, in his first work, lashed Dr. Price in a strain of eloquent irony for considering the monarchy to be elective, which he could not but know Dr. Price, *in the literal sense of election*, neither did nor could possibly consider it, Mr. Burke published a second treatise; in which, after reprinting many passages from Mr. Paine's former work, he ridicules and denies the supposed right of the people to change their governments, in the following words:

"The French revolution, *say they*," (speaking of the English societies,) "was the act of the majority of the people; and if the majority of any other people, *the people of England for instance*, wish to make the same change, they have the same right; just the same, undoubtedly; that is, None *at all*."

And then, after speaking of the subserviency of will to duty, (in which I agree with him,) he, in a substantive sentence, maintains the same doctrine; thus:

"The constitution of a country being once settled upon some compact, tacit or expressed, there is no power existing of force to alter it, without the breach of the covenant, or the consent of all the parties. Such is the nature of the contract."

So that if reason, or even revelation itself, were now to demonstrate to us, that our constitution was mischievous in its effects,—if, to use Mr. Attorney General's expression, we had been insane for the many centuries we have supported it; yet that still, if the King had not forfeited his title to the crown, nor the Lords their privileges, *the universal voice of the people of England* could not build up a new government upon a legitimate basis.

Passing by, for the present, the absurdity of such a proposition, and supposing it could, beyond all controversy, be maintained; for Heaven's sake, let wisdom never utter it! Let policy and prudence for ever conceal it! If you seek the stability of the English government, rather put the book of Mr. Paine, which calls it bad, into every hand of the kingdom, than doctrines which bid human nature rebel even against that which is the best.—Say to the people of England, look at your constitution, there it lies before you—the work of your pious fathers,—handed down as a sacred deposit from generation to generation,—the result of wisdom and virtue,—and its parts cemented together with kindred blood; there are, indeed, a few spots upon its surface; but the same principle which reared the structure will brush them all away:—You may preserve your government—you may destroy it.—To such an address, what would be the answer? A chorus of the nation—Yes, we will

PRESERVE IT. But say to the *same* nation, even of the very *same* constitution, it is yours, such as it is, for better or for worse;—it is strapped upon your backs, to carry it as beasts of burden,—you have no jurisdiction to cast it off. Let *this* be your position, and you instantly raise up (I appeal to every man's consciousness of his own nature) a spirit of uneasiness and discontent. It is this spirit alone, that has pointed most of the passages arraigned before you.

But let the prudence of Mr. Burke's argument be what it may, the argument itself is untenable. His Majesty undoubtedly was not elected to the throne. No man can be supposed, in the teeth of fact, to have contended for it;—but did not the people of England elect King William, and break the hereditary succession?—and does not his Majesty's title grow out of that election?—It is one of the charges against the defendant, his having denied the parliament which called the Prince of Orange to the throne to have been a legal convention of the whole people; and is not the very foundation of that charge, that it *was* such a legal convention, and that it was intended to be so? And *if it was so*, did not the people then confer the crown upon King William without any regard to hereditary right?—Did they not cut off the Prince of Wales, who stood directly in the line of succession, and who had incurred no personal forfeiture? —Did they not give their deliverer an estate in the crown totally new and unprecedented in the law or history of the country?—And, lastly, might they not, by the same authority, have given the royal inheritance to the family of a stranger?—Mr. Justice Blackstone, in his Commentaries, asserts in terms *that they might;* and ascribes their choice of King William, and the subsequent limitations of the crown, not to want of jurisdiction, but to their true origin, to prudence and discretion in not disturbing a valuable institution farther than public safety and necessity dictated.

Gentlemen, all that I have been stating hitherto, has been only to show, that there is not that *novelty* in the opinions of the defendant, as to lead you to think he does not *bona fide* entertain them, much less when connected with the history of his life, which I therefore brought in review before you.—But still the great question remains unargued—Had he a right to promulgate these opinions? If he entertained them, I shall argue that he had—And although my arguments upon the liberty of the press, may not to-day be honored with your, or the court's approbation, I shall retire not at all disheartened, consoling myself with the reflection, that a season may arrive for their reception.—The most essential liberties of mankind have been but slowly and gradually received, and so very late, indeed, do

some of them come to maturity, that, notwithstanding the Attorney General tells you that the very question I am now agitating is most peculiarly for *your* consideration, AS A JURY, under OUR ANCIENT constitution, yet I must remind both YOU and HIM that your jurisdiction to consider and deal with it at all in judgment, is but A YEAR OLD.—Before that late period, I ventured to maintain this very RIGHT OF A JURY over the question of Libel under the same *ancient* constitution (I do not mean before the noble judge now present, for the matter was gone to rest in the courts, long before he came to sit where he does, but) before a noble and reverend magistrate of the most exalted understanding, and of the most uncorrupted integrity; he treated me, not with contempt indeed, for of that his nature was incapable; but he put me aside with indulgence, as you do a child while it is lisping its prattle out of season; and if this cause had been tried *then*, instead of *now*, the defendant must have been instantly convicted on the proof of the publication, whatever *you* might have thought of his case.—Yet, I have lived to see it resolved, by an almost unanimous vote of the whole parliament of England, that I had all along been in the right.—If this be not an awful lesson of caution concerning opinions, where are such lessons to be read?

Gentlemen, I have insisted, at great length, upon the origin of governments, and detailed the authorities which you have heard upon the subject, because I consider it to be not only an essential support, but the very foundation of the liberty of the press. If Mr. Burke be right in HIS principles of government I admit that the press, in my sense of its freedom, ought not to be free, *nor free in any sense at all*; and that all addresses to the people upon the subject of government,—and all speculations of amendment, of what kind or nature soever, are illegal and criminal;—since, if the people have, without possible recall, delegated all their authorities, they have no jurisdiction to act, and therefore none to think or write upon such subjects;—and it would be a libel to arraign government or any of its acts, before those that have no jurisdiction to correct them. But on the other hand, as it is a settled rule in the law of England, that the subject may always address a competent jurisdiction; no legal argument can shake the freedom of the press in my sense of it, if I am supported in my doctrines concerning the great unalienable right of the people, to reform or to change their governments.

It is because the liberty of the press resolves itself into this great issue, that it has been, in every country, the last liberty which subjects have been able to wrest from power.—Other liberties are held *under* governments, but the liberty of opinion

keeps GOVERNMENTS THEMSELVES in due subjection to their duties. This has produced the martyrdom of truth in every age, and the world has been only purged from ignorance with the innocent blood of those who have enlightened it.

Gentlemen, my strength and time are wasted,—and I can only make this melancholy history pass like a shadow before you.

I shall begin with the grand type and example.

The universal God of Nature,—the Savior of mankind,—the Fountain of all light, who came to pluck the world from eternal darkness, expired upon a cross,—the scoff of infidel scorn; and his blessed Apostles followed him in the train of martyrs. When he came in the flesh, he might have come like the Mahometan Prophet, as a powerful sovereign, and propagated his religion with an unconquerable sword, which even now, after the lapse of ages, is but slowly advancing under the influence of reason, over the face of the earth:—but such a process would have been inconsistent with his mission, which was to confound the pride, and to establish the universal rights of men;—he came therefore in that lowly state which is represented in the Gospel, and preached his consolations to the poor.

When the foundation of this religion was discovered to be invulnerable and immortal, we find political power taking the church into partnership;—thus began the corruptions both of religious and civil power, and, hand in hand together, what havoc have they not made in the world!—ruling by ignorance and the persecution of truth: but this very persecution only hastened the revival of letters and liberty. Nay, you will find, that in the exact proportion that knowledge and learning have been beat down and fettered, they have destroyed the governments which bound them.—The Court of Star Chamber, the first restriction of the press of England, was erected, previous to all the great changes in the constitution. From that moment no man could legally write without an imprimatur from the state;—but truth and freedom found their way with greater force through secret channels; and the unhappy Charles, *unwarned by a free press*, was brought to an ignominious death. When men can freely communicate their thoughts and their sufferings, real or imaginary, their passions spend themselves in air, like gunpowder scattered upon the surface;—but pent up by terrors, they work unseen, burst forth in a moment, and destroy everything in their course. Let reason be opposed to reason, and argument to argument, and every good government will be safe.

The usurper Cromwell pursued the same system of restraint

in support of his government, and the end of it speedily followed.

At the restoration of Charles the Second, the Star Chamber Ordinance of 1637, was worked up into an act of parliament, and was followed up during that reign, and the short one that followed it, by the most sanguinary prosecutions:—but what fact in history is more notorious, than that this blind and contemptible policy prepared and hastened the revolution? At that great era these cobwebs were all brushed away:—the freedom of the press was regenerated,—and the country, ruled by its affections, has since enjoyed a century of tranquillity and glory. Thus I have maintained, by English history, that, in proportion as the press has been free, English government has been secure.

Gentlemen, the same important truth may be illustrated by great authorities. Upon a subject of this kind, resort cannot be had to law cases. The ancient law of England knew nothing of such libels;—they began, and should have ended, with the Star Chamber. What writings are slanderous of *individuals* must be looked for where these prosecutions are recorded; but upon *general* subjects we must go to *general* writers. If, indeed I were to refer to obscure authors, I might be answered, that my very authorities were libels, instead of justifications or examples; but this cannot be said with effect of great men, whose works are classics in our language,—taught in our schools,—and repeatedly printed under the eye of government.

I shall begin with the poet Milton, a great authority in all learning. It may be said, indeed, he was a republican, but that would only prove that republicanism is not incompatible with virtue;—it may be said, too, that the work which I cite was written against previous licensing, which is not contended for to-day. But, if every work were to be adjudged a libel, which was adverse to the wishes of government, or to the opinions of those who may compose it, the revival of a licenser would be a security to the public.—If I present my book to a magistrate appointed by law, and he rejects it, I have only to forbear from the publication;—in the forbearance I am safe;—and he too is answerable to law for the abuse of his authority. But, upon the argument of to-day, a man must print at his peril, without any guide to the principles of judgment, upon which his work may be afterwards prosecuted and condemned. Milton's argument therefore applies, and was meant to apply, to every interruption to writing, which, while they oppress the individual, endanger the state.

"We have them not," says Milton, "that can be heard of, from any ancient state, or polity, or church, nor by any statute left us by our ancestors, elder or later, nor from the modern

custom of any reformed city or church abroad; but from the most antichristian council, and the most tyrannous inquisition that ever existed. Till *then*, books were ever as freely admitted into the world as any other birth; *the issue of the brain was no more stifled than the issue of the womb.*

"To the pure all things are pure; not only meats and drinks, but all kinds of knowledge whether good or evil; the knowledge cannot defile, nor consequently the books, if the will and conscience be not defiled.

"Bad books serve in many respects to discover, to confute, to forewarn and to illustrate. Whereof, what better witness can we expect I should produce, than one of your own, now sitting in parliament, the chief of learned men reputed in this land, Mr. *Selden*, whose volume of natural and national laws, proves, not only by great authorities brought together, but by exquisite reasons and theorems almost mathematically demonstrative, that all opinions, YEA ERRORS known, read and collated, are of main service and assistance toward the speedy attainment of what is truest.

"Opinions and understanding are not such wares as to be monopolized and traded in by tickets and statutes and standards. We must not think to make a staple commodity of all the knowledge in the land, to mark and license it like our broadcloth and our wool-packs.

"Nor is it to the common people less than a reproach; for if we be so jealous over them that we cannot trust them with an English pamphlet, what do we but censure them, for a giddy, vicious, and ungrounded people; in such a sick and weak state of faith and discretion, as to be able to take nothing down but through the pipe of a licenser? That this is care or love of them, we cannot pretend.

"Those corruptions which it seeks to prevent, break in faster at doors which cannot be shut. To prevent men thinking and acting for themselves, by restraints on the press, is like to the exploits of that gallant man who thought to pound up the crows by shutting his park-gate.

"This obstructing violence meets for the most part with an event, utterly opposite to the end which it drives at; instead of suppressing books, it raises them, and invests them with a reputation: the punishment of wits enhances their authority, saith the Viscount St. Albans; and a forbidden writing is thought to be a certain spark of truth, that flies up in the face of them who seek to tread it out."

He then adverts to his visit to the famous Galileo, whom he found and visited in the Inquisition, "for not thinking in astronomy with the Franciscan and Dominican monks." And

what event ought more deeply to interest and affect us? THE VERY LAWS OF NATURE were to bend under the rod of a licenser;—this illustrious astronomer ended his life within the bars of a prison, because, in seeing the phases of Venus through his newly invented telescope, he pronounced that she shone with borrowed light, and from the sun as the centre of the universe. This was the *mighty crime*, the placing the sun in the centre:—that sun which now inhabits it upon the foundation of mathematical truth, which enables us to traverse the pathless ocean, and to carry our line and rule amongst other worlds, which but for Galileo we had never known, perhaps even to the recesses of an infinite and eternal God.

Milton, then, in his most eloquent address to the Parliament, puts the liberty of the press on its true and most honorable foundation:

"Believe it, lords and commons, they who counsel ye to such a suppression of books, do as good as bid you suppress yourselves; and I will soon show how.

"If it be desired to know the immediate cause of all this free writing and free speaking, there cannot be assigned a truer than your own mild, and free, and humane government. It is the liberty, lords and commons, which your own valorous and happy counsels have purchased us; liberty, which is the nurse of all great wits: this is that which hath rarefied and enlightened our spirits like the influence of heaven; this is that which hath enfranchised, enlarged, and lifted up our apprehensions, degrees above themselves. Ye cannot make us now less capable, less knowing, less eagerly pursuing the truth, unless ye first make yourselves, that made us so, less the lovers, less the founders of our true liberty. We can grow ignorant again, brutish, formal, and slavish, as ye found us; but you then must first become that which ye cannot be, oppressive, arbitrary, and tyrannous, as they were from whom ye have freed us. That our hearts are now more capacious, our thoughts now more erected to the search and expectation of greatest and exactest things, is the issue of our own virtue propagated in us. Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties."

But *now* every man is to be cried down for such opinions. I observed that my learned friend significantly raised his voice in naming Mr. Horne Tooke, as if to connect him with Paine, or Paine with him. This is exactly the same course of justice;—for after all, he said nothing of Mr. Tooke. What could he have said, but that he was a man of great talents, and a subscriber with the great names I have read in proceedings which they have thought fit to desert?

Gentlemen, let others hold their opinions, and change them at their pleasure; I shall ever maintain it to be the dearest privilege of the people of Great Britain to watch over everything that affects their happiness, either in the system of government, or in the practice; and that for this purpose THE PRESS MUST BE FREE. It has always been so, and much evil has been corrected by it.—If government finds itself annoyed by it, let it examine its own conduct, and it will find the cause,—let it amend it, and it will find the remedy.

Gentlemen, I am no friend to sarcasms in the discussion of grave subjects, but you must take writers according to the view of the mind at the moment; Mr. Burke as often as anybody indulges in it:—hear his reason in his speech on reform, for not taking away the salaries from lords who attend upon the British court. "You would," said he, "have the court deserted by all the nobility of the kingdom.

"Sir, the most serious mischiefs would follow from such a desertion. Kings are naturally lovers of low company; they are so elevated above all the rest of mankind, that they must look upon all their subjects as on a level: they are rather apt to hate than to love their nobility on account of the occasional resistance to their will, which will be made by their virtue, their petulance, or their pride. It must indeed be admitted, that many of the nobility are as perfectly willing to act the part of flatterers, tale-bearers, parasites, pimps, and buffoons, as any of the lowest and vilest of mankind can possibly be. But they are not properly qualified for this object of their ambition. The want of a regular education, and early habits, with some lurking remains of their dignity, will never permit them to become a match for an Italian eunuch, a mountebank, a fiddler, a player, or any regular practitioner of that tribe. The Roman Emperors, almost from the beginning, threw themselves into such hands; and the mischief increased every day, till its decline, and its final ruin. It is, therefore, of very great importance (provided the thing is not overdone,) to contrive such an establishment as must, almost whether a prince will or not, bring into daily and hourly offices about his person, a great number of his first nobility; and it is rather a useful prejudice that gives them a pride in such a servitude; though they are not much the better for a court, a court will be much the better for them. I have, therefore, not attempted to reform any of the offices of honor about the king's person."

What is all this but saying, that a king is an animal so incurably addicted to low company, as generally to bring on by it the ruin of nations; but nevertheless, he is to be kept as a necessary evil, and his propensities bridled by surrounding him

with a parcel of miscreants still worse if possible, but better than those he would choose for himself. This, therefore, if taken by itself, would be a most abominable and libellous sarcasm on kings and nobility; but look at the whole speech, and you observe a great system of regulation; and no man, I believe, ever doubted Mr. Burke's attachment to monarchy. To judge, therefore, of any part of a writing, THE WHOLE MUST BE READ.

With the same view I will read to you the beginning of Harrington's Oceana: but it is impossible to name this well-known author without exposing to just contempt and ridicule the ignorant or profligate misrepresentations which are vomited forth upon the public, to bear down every man as desperately wicked, who, in any age or country, has countenanced a republic, for the mean purpose of prejudging this trial.

Is this the way to support the English constitution?—Are these the means by which Englishmen are to be taught to cherish it?—I say, if the man upon trial were stained with blood instead of ink,—if he were covered over with crimes which human nature would start at the naming of, the means employed against him would not be the less disgraceful.

For this notable purpose, then, Harrington, *not above a week ago*, was handed out to us as a low, obscure wretch, involved in the murder of the monarch, and the destruction of the monarchy, and as addressing his despicable works at the shrine of an usurper. Yet this very Harrington, this low blackguard was descended (you may see his pedigree at the Herald's office for sixpence) from eight dukes, three marquisses, seventy earls, twenty-seven viscounts, and thirty-six barons, sixteen of whom were knights of the garter; a descent which I think would save a man from disgrace in any of the circles of Germany. But what was he besides?—A BLOOD-STAINED RUFFIAN?—Oh brutal ignorance of the history of the country! He was the most affectionate servant of Charles the First, from whom he never concealed his opinions; for it is observed by Wood, that the king greatly affected his company; but when they happened to talk of a commonwealth, he would scarcely endure it.—"I know not," says Toland, "which most to commend; the king for trusting an honest man, though a republican; or Harrington for owning his principles while he served a king."

But did his opinions affect his conduct?—Let history again answer.—He preserved his fidelity to his unhappy prince to the very last, after all his fawning courtiers had left him to his enraged subjects. He staid with him while a prisoner in the Isle of Wight;—came up by stealth to follow the fortunes of his monarch and master;—even hid himself in the boot of the

coach when he was conveyed to Windsor;—and ending as he began, fell into his arms and fainted on the scaffold.

After Charles's death, the Oceana was written, and, as if it were written from justice and affection to his memory; for it breathes the same noble and spirited regard, and asserts that it was not CHARLES that brought on the destruction of the *monarchy*, but the feeble and ill-constituted nature of monarchy *itself*.

But the book was a flattery to Cromwell.—Once more and finally let history decide.—The Oceana was seized by the Usurper as a libel, and the way it was recovered is remarkable. I mention it to show that Cromwell was a wise man in himself, and knew on what governments must stand for their support.

Harrington waited on the Protector's daughter to beg for his book, which her father had taken, and on entering her apartment, snatched up her child and ran away.—On her following him with surprise and terror, he turned to her and said, "I know what you feel as a mother, feel then for ME: your father has got MY child:" meaning the Oceana. The Oceana was afterwards restored on her petition: Cromwell answering with the sagacity of a sound politician, "Let him have his book; if my government is made to stand, it has nothing to fear from PAPER SHOT."—He said true. No GOOD government will ever be battered by paper shot. Montesquieu says, "that in a free nation, it matters not whether individuals reason well or ill; it is sufficient that they *do* reason. Truth arises from the collision, and from hence springs liberty, which is a security from the effect of reasoning." The Attorney General has read extracts from Mr. Adams's answer to this book. Let others write answers to it, like Mr. Adams; I am not insisting upon the infallibility of Mr. Paine's doctrines; if they are erroneous, let them be answered, and truth will spring from the collision.

Milton wisely says, that a disposition in a nation to this species of controversy, is no proof of sedition or degeneracy, but quite the reverse [I omitted to cite the passage with the others.] In speaking of this subject, he rises into that inexpressibly sublime style of writing, wholly peculiar to himself. He was indeed no plagiary from anything human: he looked up for light and expression, as he himself wonderfully describes it, by devout prayer to ~~that great Being, who is the~~ source of all utterance and knowledge; and who sendeth out his seraphim with the hallowed fire of his altar to touch and purify the lips of whom he pleases. "When the cheerfulness of the people," says this mighty poet, "is so sprightly up, as that it hath not only wherewith to guard well its own freedom and safety, but to

spare, and to bestow upon the solidest and sublimest points of controversy and new invention, it betokens us not degenerated nor drooping to a fatal decay, but casting off the old and wrinkled skin of corruption, to outlive these pangs and wax young again, entering the glorious ways of truth and prosperous virtue, destined to become great and honorable in these latter ages. Methinks I see, in my mind, a noble and puissant nation rousing herself, like a strong man after sleep, and shaking her invincible locks: methinks I see her as an eagle muing her mighty youth, and kindling her undazzled eyes at the full mid-day beam; purging and unscaling her long-abused sight at the fountain itself of heavenly radiance; while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means, and in their envious gabble would prognosticate a year of sects and schisms."

Gentlemen, what Milton only saw in his mighty imagination, I see in fact; what he expected, but which never came to pass I see now fulfilling: methinks I see this noble and puissant nation, not degenerated and drooping to a fatal decay, but casting off the wrinkled skin of corruption to put on again the vigor of her youth. And it is, because others as well as myself see this, that we have all this uproar.—France and its constitution are the mere pretences. It is, because Britons begin to recollect the inheritance of their own constitution, left them by their ancestors:—it is, because they are awakened to the corruptions which have fallen upon its most valuable parts, that forsooth the nation is in danger of being destroyed by a single pamphlet.—I have marked the course of this alarm: it began with the renovation of those exertions for the public, which the alarmists themselves had originated and deserted; and they became louder and louder when they saw them avowed and supported by my admirable friend Mr. Fox; the most eminently honest and enlightened statesman, that history brings us acquainted with: a man whom to name is to honor, but whom in attempting adequately to describe, I must fly to Mr. Burke, my constant refuge when eloquence is necessary:—a man, who to relieve the sufferings of the most distant nation, "put to the hazard his ease, his security, his interest, his power, even his darling popularity, for the benefit of a people whom he had never seen." How much more then for the inhabitants of his native country!—yet this is the man who has been censured and disavowed in the manner we have lately seen.

Gentlemen, I have but a few more words to trouble you with: I take my leave of you with declaring, that all this freedom which I have been endeavoring to assert, is no more than the ancient freedom which belongs to our own inbred constitution:

I have not asked you to acquit Thomas Paine upon any new lights, or upon any principle but that of the law, which you are sworn to administer;—my great object has been to inculcate, that wisdom and policy, which are the parents of the government of Great Britain, forbid this jealous eye over her subjects; and that, on the contrary, they cry aloud in the language of the poet, adverted to by lord Chatham on the memorable subject of America, *unfortunately without effect.*

"Be to their faults a little blind,
Be to their virtues very kind;
Let all their thoughts be unconfin'd,
Nor clap your padlock on the mind."

Engage the people by their affections, convince their reason, —and they will be loyal from the only principle that can make loyalty sincere, vigorous, or rational,—a conviction that it is their truest interest, and that their government is for their good. Constraint is the natural parent of resistance, and a pregnant proof, that reason is not on the side of those who use it. You must all remember Lucian's pleasant story; Jupiter and a countryman were walking together, conversing with great freedom and familiarity upon the subject of heaven and earth. The countryman listened with attention and acquiescence, while Jupiter strove only to convince him:—but happening to hint a doubt, Jupiter turned hastily round and threatened him with his thunder.—"Ah! ah!" says the countryman, "now, Jupiter, I know that you are wrong; you are always wrong when you appeal to your thunder."

This is the case with me—I can reason with the people of England, but I cannot fight against the thunder of authority.

Gentlemen, this is my defence of free opinions. With regard to myself, I am, and always have been, obedient and affectionate to *the law*;—to that rule of action, as long as I exist, I shall ever do as I have done to-day, maintain the dignity of my high profession, and perform, as I understand them, all its important duties.

SPEECH OF THE HON. T. ERSKINE

ON THE PROSECUTION OF THE

PUBLISHER OF THE AGE OF REASON.

GENTLEMEN OF THE JURY,

The charge of blasphemy, which is put upon the record against the publisher of this publication is not an accusation of the servants of the crown, but comes before you sanctioned by the oaths of a grand jury of the country. It stood for trial upon a former day; but it happening, as it frequently does, without any imputation upon the gentlemen named in the pannel, that a sufficient number did not appear to constitute a full special jury, I thought it my duty to withdraw the cause from trial, till I could have the opportunity of addressing myself to *you*, who were originally appointed to try it.

I pursued this course, from no jealousy of the common juries appointed by the laws for the ordinary service of the court, since my whole life has been one continued experience of their virtues; but because I thought it of great importance, that those who were to decide upon a cause so very momentous to the public, should have the highest possible qualifications for the decision; that they should not only be men capable from their educations of forming an enlightened judgment, but that their situations should be such as to bring them within the full view of their country, to which, in character and in estimation, they were in their own turns to be responsible.

Not having the honor, gentlemen, to be sworn for the king as one of his counsel, it has fallen much oftener to my lot to defend indictments for libels, than to assist in the prosecution of them; but I feel no embarrassment from that recollection.—I shall not be found to-day to express a sentiment, or to utter an expression, inconsistent with those invaluable principles for which I have uniformly contended in the defence of others. Nothing that I have ever said, either professionally or personally, for the liberty of the press, do I mean to-day to contradict or counteract. On the contrary, I desire to preface the very short discourse I have to make to you, with reminding you, that it is your most solemn duty to take care that it suffers no injury in your hands. A free and unlicensed press, *in the just and legal sense of the expression*, has led to all the blessings both of religion

and government, which Great Britain or any part of the world at this moment enjoys, and it is calculated to advance mankind to still higher degrees of civilization and happiness.—But this freedom, like every other, must be limited to be enjoyed, and like every human advantage, may be defeated by its abuse.

Gentlemen, the defendant stands indicted for having published this book, which I have only read from the obligations of professional duty, and which I rose from the reading of with astonishment and disgust. Standing here with all the privileges belonging to the highest counsel for the crown, I shall be entitled to reply to any defence that shall be made for the publication. I shall wait with patience till I hear it.

Indeed, if I were to anticipate the defence which I hear and read of, it would be defaming by anticipation the learned counsel who is to make it;—since if I am to collect it, from a formal notice given to the prosecutors in the course of the proceedings, I have to expect, that, instead of a defence conducted according to the rules and principles of English law, the foundation of all our laws, and the sanctions of all justice, are to be struck at and insulted. What gives the court its jurisdiction?—What but the oath which his lordship, as well as yourselves, have sworn upon the Gospel to fulfil? Yet in the king's court, where his majesty is himself also sworn to administer the justice of England—in the king's court—who receives his high authority under a solemn oath to maintain the Christian religion, as it is promulgated by God in the Holy Scriptures, I am nevertheless called upon as counsel for the prosecution to "*produce a certain book described in the Indictment to be* THE HOLY BIBLE." No man deserves to be upon the rolls, who has dared, as an attorney, to put his name to such a notice. It is an insult to the authority and dignity of the court of which he is an officer; since it calls in question the very foundations of its jurisdiction. If this is to be the spirit and temper of the defence;—if, as I collect from that array of books which are spread upon the benches behind me, this publication is to be vindicated by an attack of all the truths which the Christian religion promulgates to mankind, let it be remembered that such an argument was neither suggested nor justified by anything said by me on the part of the prosecution.

In this stage of the proceedings, I shall call for reference to the sacred Scriptures, not from their merits, unbounded as they are, but from their authority in a Christian country—not from the obligations of conscience, but from the rules of law. For my own part, gentlemen, I have been ever deeply devoted to the truths of Christianity; and my firm belief in the Holy Gospel is by no means owing to the prejudices of educatior

(though I was religiously educated by the best of parents,) but has arisen from the fullest and most continued reflections of my riper years and understanding. It forms at this moment the great consolation of a life, which, as a shadow, passes away; and without it, I should consider my long course of health and prosperity (too long perhaps, and too uninterrupted, to be good for any man) only as the dust which the wind scatters, and rather as a snare than as a blessing.

Much, however, as I wish to support the authority of Scripture from a reasoned consideration of it, I shall repress that subject for the present. But if the defence, as I have suspected, shall bring them at all into argument or question, I must then fulfil a duty which I owe not only to the Court, as counsel for the prosecution, but to the public, and to the world,—to state what I feel and know concerning the evidences of that religion, which is denied without being examined, and reviled without being understood.

I am well aware that by the communications of a FREE PRESS, all the errors of mankind, from age to age, have been dissipated and dispelled; and I recollect that the world, under the banners of reformed Christianity, has struggled through persecution to the noble eminence on which it stands at this moment —shedding the blessings of humanity and science upon the nations of the earth.

It may be asked then by what means the Reformation would have been effected, if the books of the Reformers had been suppressed, and the errors of now exploded superstitions had been supported by the terrors of an unreformed state? or how, upon such principles, any reformation, civil or religious, can in future be effected? The solution is easy:—Let us examine what are the genuine principles of the liberty of the press, as they regard writings upon general subjects, unconnected with the personal reputations of private men, which are wholly foreign to the present inquiry. They are full of simplicity, and are brought as near perfection, by the law of England, as, perhaps, is attainable by and of the frail institutions of mankind.

Although every community must establish supreme authorities, founded upon fixed principles, and must give high powers to magistrates to administer laws for the preservation of government, and for the security of those who are to be protected by it;—yet, as infallibility and perfection belong neither to human individuals nor to human establishments, it ought to be the policy of all free nations, as it is most peculiarly the principle of our own, to permit the most unbounded freedom of discussion, even to the detection of errors in the constitution of the very government itself; so as that common decorum is

observed, which every state must exact from its subjects, and which imposes no restraint upon any intellectual composition, fairly, honestly, and decently addressed to the consciences and understandings of men. Upon this principle, I have an unquestionable right—a right which the best subjects have exercised—to examine the principles and structure of the constitution, and by fair, manly reasoning, to question the practice of its administrators. I have a right to consider and to point out errors in the one or in the other; and not merely to reason upon their existence, but to consider the means of their reformation.

By such free, well-intentioned, modest, and dignified communication of sentiments and opinions, all nations have been gradually improved, and milder laws and purer religions have been established. The same principles, which vindicate civil controversies, honestly directed, extend their protection to the sharpest contentions on the subject of religious faiths. This rational and legal course of improvement was recognized and ratified by Lord Kenyon as the law of England, in a late trial at Guildhall, where he looked back with gratitude to the labors of the Reformers, as the fountains of our religious emancipation, and of the civil blessings that followed in their train. The English constitution, indeed, does not stop short in the toleration of religious *opinions*, but liberally extends it to *practice*. It permits every man, EVEN PUBLICLY, to worship God according to his own conscience, though in marked dissent from the national establishment,—so as he professes the general faith, which is the sanction of all our moral duties, and the only pledge of our submission to the system which constitutes the state.

Is not this freedom of controversy and freedom of worship sufficient for all the purposes of human happiness and improvement?—Can it be necessary for either, that the law should hold out indemnity to those, who wholly abjure and revile the government of their country, or the religion on which it rests for its foundation? I expect to hear, in answer to what I am now saying, much that will offend me. My learned friend, from the difficulties of his situation, which I know, from experience, how to feel for very sincerely, may be driven to advance propositions which it may be my duty, with much freedom, to reply to,—and the law will sanction that freedom.—But will not the ends of justice be completely answered by my exercise of that right, in terms that are decent, and calculated to expose its defects?—Or will my argument suffer, or will public justice be impeded, because neither private honor and justice, nor public decorum, would endure my telling my very learned friend, be-

cause I differ from him in opinion, that he is a fool,—a liar,—and a scoundrel, in the face of the Court? This is just the distinction between a book of free legal controversy, and the book which I am arraigning before you. Every man has a right to investigate, with decency, controversial points of the Christian religion;—but no man, consistently with a law which only exists under its sanctions, has a right to deny its very existence, and to pour forth such shocking and insulting invectives, as the lowest establishments in the gradations of civil authority ought not to be subjected to, and which soon would be borne down by insolence and disobedience, if they were.

The same principle pervades the whole system of the law, not merely in its abstract theory, but in its daily and most applauded practice.—The intercourse between the sexes, which, properly regulated, not only continues, but humanizes and adorns our natures, is the foundation of all the thousand romances, plays, and novels, which are in the hands of everybody. Some of them lead to the confirmation of every virtuous principle;—others, though with the same profession, address the imagination in a manner to lead the passions into dangerous excesses:—but though the law does not nicely discriminate the various shades which distinguish these works from one another, so as to suffer many to pass, through its liberal spirit, that upon principle ought to be suppressed, would it, or does it tolerate or does any decent man contend that it ought to pass by unpunished, libels of the most shameless obscenity, manifestly pointed to debauch innocence, and to blast and poison the morals of the rising generation? This is only another illustration to demonstrate the obvious distinction between the work of an author, who fairly exercises the powers of his mind, in investigating the religion or government of any country, and him who attacks the rational existence of every religion or government, and brands with absurdity and folly the state which sanctions, and the obedient tools who cherish the delusion. But this publication appears to me to be as cruel and mischievous in its effects, as it is manifestly illegal in its principles; because it strikes at the best—sometimes, alas! the only refuge and consolation amidst the distresses and afflictions of the world. The poor and humble, whom it affects to pity, may be stabbed to the heart by it.—They have more occasion for firm hopes beyond the grave, than the rich and prosperous, who have other comforts to render life delightful. I can conceive a distressed but virtuous man, surrounded by his children, looking up to him for bread when he has none to give them;—sinking under the last day's labor, and unequal to the next,—yet, still supported by confidence in the hour when all tears

shall be wiped from the eyes of affliction, bearing the burden laid upon him by a mysterious Providence which he adores, and anticipating with exultation the revealed promises of his Creator, when he shall be greater than the greatest, and happier than the happiest of mankind. What a change in such a mind might be wrought by such a merciless publication!—Gentlemen! whether these remarks are the overcharged declamation of an accusing counsel, or the just reflections of a man anxious for the public happiness, which is best secured by the morals of a nation, will be soon settled by an appeal to the passages in the work, that are selected by the Indictment for your consideration and judgment. You are at liberty to connect them with every context and sequel, and to bestow upon them the mildest interpretation. [*Here Mr. Erskine read and commented upon several of the selected passages, and then proceeded as follows:*]

Gentlemen, it would be useless and disgusting to enumerate the other passages within the scope of the Indictment. How any man can rationally vindicate the publication of such a book, in a country where the Christian religion is the very foundation of the law of the land, I am totally at a loss to conceive, and have no ideas for the discussion of. How is a tribunal, whose whole jurisdiction is founded upon the solemn belief and practice of what is here denied as falsehood, and reprobated as impiety, to deal with such an anomalous defence?—Upon what principle is it even offered to the Court, whose authority is contemned and mocked at?—If the religion proposed to be called in question, is not previously adopted in belief and solemnly acted upon, what authority has the Court to pass any judgment at all of acquittal or condemnation?—Why am I now, or upon any other occasion, to submit to his Lordship's authority?—Why am I now, or at any time, to address twelve of my equals, as I am now addressing you, with reverence and submission?—Under what sanction are the witnesses to give their evidence, without which there can be no trial?—Under what obligations can I call upon you, the Jury representing your country, to administer justice?—Surely upon no other than that you are SWORN TO ADMINISTER IT UNDER THE OATHS YOU HAVE TAKEN. The whole judicial fabric, from the King's sovereign authority to the lowest office of magistracy, has no other foundation. The whole is built, both in form and substance, upon the same oath of every one of its ministers to do justice, as GOD SHALL HELP THEM HEREAFTER? WHAT GOD? and WHAT HEREAFTER? That God, undoubtedly, who has commanded Kings to rule, and Judges to decree justice;—who has said to witnesses, not only by the voice of nature, but in re

vealed commandments—THOU SHALT NOT BEAR FALSE TESTIMONY AGAINST THY NEIGHBOR;—and who has enforced obedience to them by the revelation of the unutterable blessings which shall attend their observance, and the awful punishments which shall await upon their transgressions.

But it seems this is an AGE OF REASON, and the time and the person are at last arrived, that are to dissipate the errors which have overspread the past generations of ignorance. The believers in Christianity are many, but it belongs to the few that are wise to correct their credulity. Belief is an act of reason, and superior reason may, therefore, dictate to the weak. In running the mind along the long list of sincere and devout Christians, I cannot help lamenting, that Newton had not lived to this day, to have had his shallowness filled up with this new flood of light.—But the subject is too awful for irony. I will speak plainly and directly. Newton was a Christian!—Newton, whose mind burst forth from the fetters fastened by nature upon our finite conceptions—Newton, whose science was truth, and the foundation of whose knowledge of it was Philosophy—not those visionary and arrogant presumptions, which too often usurp its name, but philosophy resting upon the basis of mathematics, which like figures cannot lie—Newton, who carried the line and rule to the uttermost barriers of creation, and explored the principles by which all created matter exists, and is held together. But this extraordinary man, in the mighty reach of his mind, overlooked, perhaps, the errors, which a minuter investigation of the created things on this earth might have taught him. What shall then be said of the great Mr. Boyle, who looked into the organic structure of all matter, even to the inanimate substances which the foot treads upon?—Such a man may be supposed to have been equally qualified with Mr. Paine to look up through nature to nature's God. Yet the result of all *his* contemplations was the most confirmed and devout belief in all which the other holds in contempt, as despicable and drivelling superstition.—But this error might, perhaps, arise from a want of due attention to the foundations of human judgment, and the structure of that understanding which God has given us for the investigation of truth.—Let that question be answered by Mr. Locke, who, to the highest pitch of devotion and adoration, was a Christian—Mr. Locke, whose office was to detect the errors of thinking, by going up to the very fountains of thought, and to direct into the proper tract of reasoning, the devious mind of man, by showing him its whole process, from the first perceptions of sense to the last conclusions of ratiocination:—putting a rein upon false opinion, by practical rules for the conduct of human judgment.

But these men, it may be said, were only deep thinkers, and lived in their closets, unaccustomed to the traffic of the world, and to the laws which practically regulate mankind. Gentlemen! in the place where we now sit to administer the justice of this great country, the never-to-be-forgotten Sir Matthew Hale presided;—whose faith in Christianity is an exalted commentary upon its truth and reason, and whose life was a glorious example of its fruits;—whose justice, drawn from the pure fountain of the Christian dispensation, will be, in all ages, a subject of the highest reverence and admiration. But it is said by the author, that the Christian fable is but the tale of the more ancient superstitions of the world, and may be easily detected by a proper understanding of the mythologies of the Heathens.—Did Milton understand those mythologies?—Was he less versed than Mr. Paine in the superstitions of the world? No,—they were the subject of his immortal song; and though shut out from all recurrence to them, he poured them forth from the stores of a memory rich with all that man ever knew, and laid them in their order as the illustration of real and exalted faith, the unquestionable source of that fervid genius which has cast a kind of shade upon all the other works of man—

> He pass'd the bounds of flaming space,
> Where angels tremble while they gaze—
> He saw,—till blasted with excess of light,
> He clos'd his eyes in endless night.

But it was the light of the BODY only that was extinguished; "The CELESTIAL LIGHT shone inward, and enabled him to justify the ways of God to man."—The result of his thinking was nevertheless not quite the same as the author's before us. The mysterious incarnation of our blessed Savior (which this work blasphemes in words so wholly unfit for the mouth of a Christian, or for the ear of a court of justice, that I dare not, and will not, give them utterance,) Milton made the grand conclusion of his *Paradise Lost*, the rest from his finished labors, and the ultimate hope, expectation, and glory of the world.

> A Virgin is his Mother, but his Sire,
> The power of the Most High;—he shall ascend
> The throne hereditary, and bound his reign
> With earth's wide bounds, his glory with the heavens.

The immortal poet having thus put into the mouth of the angel the prophecy of man's redemption, follows it with that solemn and beautiful admonition, addressed in the Poem to our great first parent, but intended as an address to his posterity through all generations:

This having learn'd, thou hast attain'd the sum
Of wisdom; hope no higher, though all the stars
Thou knew'st by name, and all th' ethereal pow'rs,
All secrets of the deep, all Nature's works;
Or works of God in heav'n, air, earth or sea,
And all the riches of this world enjoy'st,
And all the rule, one empire; only add
Deeds to thy knowledge answerable, add faith,
Add virtue, patience, temperance, add love,
By name to come call'd Charity, the soul
Of all the rest: then wilt thou not be loth
To leave this Paradise, but shalt possess
A Paradise within thee, happier far.

Thus you find all that is great, or wise, or splendid, or illustrious, amongst created beings;—all the minds gifted beyond ordinary nature, if not inspired by its universal Author for the advancement and dignity of the world, though divided by distant ages, and by clashing opinions, yet joining as it were in one sublime chorus, to celebrate the truths of Christianity, and laying upon its holy altars the never-fading offerings of their immortal wisdom.

Against all this concurring testimony, we find suddenly, from the author of this book, that the Bible teaches nothing but "LIES, OBSCENITY, CRUELTY, and INJUSTICE." Had he ever read our Savior's sermon on the Mount, in which the great principles of our faith and duty are summed up?—Let us all but read and practise it; and lies, obscenity, cruelty, and injustice, and all human wickedness, will be banished from the world!

Gentlemen, there is but one consideration more, which I cannot possibly omit, because I confess it affects me very deeply. The author of this book has written largely on public liberty and government; and this last performance, which I am now prosecuting, has, on that account, been more widely circulated, and principally among those who attached themselves from principle to his former works. This circumstance renders a public attack *upon all revealed religion* from *such a writer* infinitely more dangerous. The religious and moral sense of the people of Great Britain is the great anchor, which alone can hold the vessel of the state amidst the storms which agitate the world; and if the mass of the people were debauched from the principles of religion,—the true basis of that humanity, charity, and benevolence, which have been so long the national characteristic; instead of mixing myself, as I sometimes have done, in political reformations,—I would retire to the uttermost corners of the earth, to avoid their agitation; and would bear, not only the imperfections and abuses complained of in our own wise establishment, but even the worst government that ever

existed in the world, rather than go to the work of reformation with a multitude set free from all the charities of Christianity, who had no other sense of God's existence, than was to be collected from Mr. Paine's observation of nature, which the mass of mankind have no leisure to contemplate;—which promises no future rewards, to animate the good in the glorious pursuit of human happiness, nor punishments to deter the wicked from destroying it even in its birth. The people of England are a religious people, and, with the blessing of God, so far as it is in my power, I will lend my aid to keep them so.

I have no objections to the most extended and free discussions upon doctrinal points of the Christian religion; and *though the law of England does not permit it,* I do not dread the reasonings of Deists against the existence of Christianity itself, because, as was said by its divine Author, if it be of God it will stand. An intellectual book, however erroneous, addressed to the intellectual world upon so profound and complicated a subject, can never work the mischief which this indictment is calculated to repress. Such works will only incite the minds of men enlightened by study, to a deeper investigation of a subject well worthy of their deepest and continued contemplation. The powers of the mind are given for human improvement in the progress of human existence. The changes produced by such reciprocations of lights and intelligences are certain in their progressions, and make their way imperceptibly, by the final and irresistible power of truth. If Christianity be founded in falsehood, let us become Deists in this manner, and I am contented.—But this book has no such object, and no such capacity:—it presents no arguments to the wise and enlightened. On the contrary, it treats the faith and opinions of the wisest with the most shocking contempt, and stirs up men, without the advantages of learning, or sober thinking, to a total disbelief of everything hitherto held sacred; and consequently to a rejection of all the laws and ordinances of the state, which stand only upon the assumption of their truth.

Gentlemen, I cannot conclude without expressing the deepest regret at all attacks upon the Christian religion by authors who profess to promote the civil liberties of the world. For under what other auspices than Christianity have the lost and subverted liberties of mankind in former ages been reasserted?—By what zeal, but the warm zeal of devout Christians, have English liberties been redeemed and consecrated?—Under what other sanctions, even in our own days, have liberty and happiness been spreading to the uttermost corners of the earth?—What work of civilization, what commonwealth of greatness

has this bald religion of nature ever established?—We see, on the contrary, the nations that have no other light than that of nature to direct them, sunk in barbarism, or slaves to arbitrary governments; whilst, under the Christian dispensation, the great career of the world has been slowly, but clearly advancing,—lighter at every step, from the encouraging prophecies of the Gospel, and leading, I trust, in the end, to universal and eternal happiness. Each generation of mankind can see but a few revolving links of this mighty and mysterious chain; but by doing our several duties in our allotted stations, we are sure that we are fulfilling the purposes of our existence.—You, I trust, will fulfil yours this day.

MR. ERSKINE'S SPEECH,

IN MARKAM *vs.* FAWCETT, BEFORE THE DEPUTY SHERIFF OF MIDDLESEX AND A SPECIAL JURY, UPON AN INQUISITION OF DAMAGES.

Mr. Sheriff, and Gentlemen of the Jury—In representing the unfortunate gentleman who has sustained the injury which has been stated to you by my learned friend, Mr. Holroyd, who opened the pleadings, I feel one great satisfaction—a satisfaction founded, as I conceive, on a sentiment perfectly constitutional.—I am about to address myself to men whom I PERSONALLY KNOW;—to men, honorable in their lives,—moral,—judicious; and capable of correctly estimating the injuries they are called upon to condemn in their character of jurors. THIS, Gentlemen, is the only country in the world, where there is such a tribunal as the one before which I am now to speak: for, however in other countries such institutions as our own may have been set up of late, it is only by that maturity which it requires ages to give to governments—by that progressive wisdom which has slowly ripened the Constitution of our country, that it is possible there can exist such a body of men as YOU are. It is the great privilege of the subjects of England that they judge one another.—It is to be recollected, that, although we are in this private room, all the sanctions of justice are present.—It makes no manner of difference, whether I address you in the presence of the under-sheriff, your respectable chairman, or with the assistance of the highest magistrate of the state.

The defendant has, on this occasion, suffered judgment by default:—*other* adulterers have done so before him. Some have done so under the idea, that, by suffering judgment against them, they had retired from the public eye—from the awful presence of the judge; and that they came into a corner, where there was not such an assembly of persons to witness their misconduct, and where it was to be canvassed before persons, who might be less qualified to judge the case to be addressed to them.

It is not long, however, since such persons have had an opportunity of judging how much they were mistaken in this respect: the largest damages, in cases of adultery, have been given in this place.—By this place, I do not mean the particular room in which we are now assembled, but under inquisitions

directed to the Sheriff; and the instances to which I allude, are of modern, and, indeed, recent date.

Gentlemen, after all the experience I have had, I feel myself I confess, considerably embarrassed in what manner to address you. There are some subjects that harass and overwhelm the mind of man.—There are some kinds of distresses one knows not how to deal with.—It is impossible to contemplate the situation of the Plaintiff without being disqualified, in some degree, to represent it to others with effect.—It is no less impossible for you, Gentlemen, to receive on a sudden the impressions which have been long in *my* mind, without feeling overpowered with sensations, which, after all, had better be absent, when men are called upon, in the exercise of duty, to pronounce a legal judgment.

The plaintiff is the third son of his grace the Archbishop of York, a clergyman of the Church of England; presented in the year 1791, to the living of Stokeley, in Yorkshire; and now, by his majesty's favor, Dean of the Cathedral of York.—He married, in the year 1789, Miss Sutton, the daughter of Sir Richard Sutton, Bart. of Norwood, in Yorkshire, a lady of great beauty and accomplishments, most virtuously educated, and who, but for the crime of the defendant which assembles you here, would, as she has expressed it herself, have been the happiest of womankind. This gentleman having been presented, in 1791, by his father to this living, where I understand there had been no resident Rector for forty years, set an example to the Church and to the public, which was peculiarly virtuous in a man circumstanced as he was; for, if there can be any person more likely than another to protect himself securely with privileges and indulgences, it might be supposed to be the son of the metropolitan of the province. This gentleman, however, did not avail himself of the advantage of his birth and station: for, although he was a very young man, he devoted himself entirely to the sacred duties of his profession; —at a large expense he repaired the Rectory-house for the reception of his family, as if it had been his own patrimony, whilst, in his extensive improvements, he adopted only those arrangements which were calculated to lay the foundation of an innocent and peaceful life.—He had married this lady, and entertained no other thought than that of cheerfully devoting himself to all the duties, public and private, which his situation called upon him to perform.

About this time, or soon afterwards, the defendant became the purchaser of an estate in the neighborhood of Stokeley, and, by such purchase, an inhabitant of that part of the country. and the neighbor of this unfortunate gentleman. It is a

most affecting circumstance, that the plaintiff and the defendant had been bred together at Westminster School; and in my mind it is still more affecting, when I reflect what it is which has given to that school so much rank, respect, and illustration. —It has derived its highest advantages from the reverend father of the unfortunate gentleman whom I represent.—It was the School of Westminster which gave birth to that learning which afterwards presided over it, and advanced its character. —However some men may be disposed to speak or write concerning public schools, I take upon me to say, they are among the wisest of our institutions;—whoever looks at the national character of the English people, and compares it with that of all the other nations upon the earth, will be driven to impute it to that reciprocation of ideas and sentiments which fill and fructify the mind in the early period of youth, and to the affectionate sympathies and friendships which rise up in the human heart before it is deadened or perverted by the interests and corruptions of the world. These youthful attachments are proverbial, and indeed few instances have occurred of any breaches of them; because a man, before he can depart from the obligations they impose, must have forsaken every principle of virtue, and every sentiment of manly honor. When, therefore, the plaintiff found his old school-fellow and companion settled in his neighborhood, he immediately considered him as his brother. Indeed he might well consider him as a brother, since, after having been at Westminster, they were *again* thrown together in the same College at Oxford; so that the friendship they had formed in their youth, became cemented and consolidated upon their first entrance into the world.—It is no wonder, therefore, that when the defendant came down to settle in the neighborhood of the plaintiff, he should be attracted towards him by the impulse of his former attachment: he recommended him to the Lord Lieutenant of the County, and, being himself a magistrate, he procured him a share in the magistracy.—He introduced him to the respectable circle of his acquaintances; he invited him to his house, and cherished him there as a friend. It is *this* which renders the business of to-day most affecting as it regards the plaintiff, and wicked in the extreme as it relates to the defendant, because the confidences of friendship conferred the opportunities of seduction. —The plaintiff had no pleasures or affections beyond the sphere of his domestic life; and except on his occasional residences at York, which were but for short periods, and at a very inconsiderable distance from his home, he constantly reposed in the bosom of his family.—I believe it will be impossible for my learned friend to invade his character; on the

contrary, he will be found to have been a pattern of conjugal and parental affection.

Mr. Fawcett being thus settled in the neighborhood, and thus received by Mr. Markam as his friend and companion, it is needless to say he could harbor no suspicion that the defendant was meditating the seduction of his wife:—there was nothing indeed, in his conduct, or in the conduct of the unfortunate lady, that could administer any cause of jealousy to the most guarded or suspicious temper. Yet dreadful to relate, and it is, indeed, the bitterest evil of which the plaintiff has to complain, a criminal intercourse for nearly five years before the discovery of the connexion had most probably taken place.

I will leave you to consider what must have been the feelings of such a husband, upon the fatal discovery that his wife, and such a wife, had conducted herself in a manner that not merely deprived him of her comfort and society, but placed him in a situation too horrible to be described. If a man without children is suddenly cut off by an adulterer from all the comforts and happiness of marriage, the discovery of *his* condition is happiness itself when compared with that to which the plaintiff is reduced. When children, by a woman, lost for ever to the husband, by the arts of the adulterer, are begotten in the unsuspected days of virtue and happiness, there remains a consolation; mixed indeed, with the most painful reflections, yet a consolation still.—But what is the plaintiff's situation?—He does not know at *what time* this heavy calamity fell upon him—he is tortured with the most afflicting of all human sensations.—When he looks at the children, whom he is by law bound to protect and to provide for, and from whose existence he ought to receive the delightful return which the union of instinct and reason has provided for the continuation of the world, he knows not whether he is lavishing his fondness and affection upon his own children, or upon the seed of a villain sown in the bed of his honor and his delight.—He starts back with horror, when, instead of seeing his own image reflected from their infant features, he thinks he sees the destroyer of his happiness—a midnight robber introduced into his house, under professions of friendship and brotherhood—a plunderer, not in the repositories of his treasure which may be supplied, or lived without, "*but there where he had garnered up his hopes, where either he must live or bear no life.*"

In this situation, the plaintiff brings his case before you, and the defendant attempts no manner of defence: he admits his guilt,—he renders it unnecessary for me to go into any proof of it; and the only question, therefore, that remains, is for you to say what shall be the consequences of his crime, and what

verdict you will pronounce against him. You are placed, therefore, in a situation most momentous to the public; you have a duty to discharge, the result of which, not only deeply affects the present generation, but which remotest posterity will contemplate to your honor or dishonor.—On *your* verdict it depends whether persons of the description of the defendant, who have cast off all respect for religion, who laugh at morality, when it is opposed to the gratification of their passions, and who are careless of the injuries they inflict upon others, shall continue their impious and destructive course with impunity.—On *your* verdict it depends whether such men, looking to the proceedings of Courts of Justice, shall be able to say to themselves, that there are *certain limits* beyond which the damages of juries are not to pass. On *your* verdict it depends whether men of large fortunes shall be able to adopt this kind of reasoning to spur them on in the career of their lusts:—*There are many chances that I may not be discovered at all:—there are chances, that, if I am discovered, I may not be the object of legal inquiry,—and supposing I should, there are certain damages, beyond which a jury cannot go;—they may be large,—but still within a certain compass: if I cannot pay them myself, there may be persons belonging to my family who will pity my situation—somehow or other the money may be raised, and I may be delivered from the consequences of my crime.* I TRUST THE VERDICT OF THIS DAY WILL SHOW MEN WHO REASON THUS, THAT THEY ARE MISTAKEN.

The action for adultery, like every other action, is to be considered according to the extent of the injury, which the person complaining to a Court of Justice has received. If he has received an injury, or sustained a loss that can be estimated directly in money, there is then no other medium of redress, but in moneys numbered according to the extent of the proof: I apprehend it will not be even stated by the Counsel for the defendant, that if a person has sustained a loss, and can show it is to any given extent, he is not entitled to the *full measure* of it in damages. If a man destroys my house or furniture, or deprives me of a chattel, I have a right, *beyond all manner of doubt*, to recover their corresponding values in money; and it is no answer to me to say, that he who has deprived me of the advantage I before possessed, is in no situation to render me satisfaction.—A verdict pronounced upon such a principle, in any of the cases I have alluded to, would be set aside by the Court, and a new trial awarded.—It would be a direct breach of the oaths of jurors, if, impressed with a firm conviction that a plaintiff had received damages to a given amount, they retired from their duty, because they felt commiseration for a

defendant, even in a case where he might be worthy of compassion from the injury being unpremeditated and inadvertent.

But there are other wrongs which cannot be estimated in money:

"You cannot minister to a *mind* diseas'd."

You cannot redress a man who is wronged beyond the possibility of redress:—the law has no means of restoring to him what he has lost.—God himself, as he has constituted human nature, has no means of alleviating such an injury as the one I have brought before you.—While the sensibilities, affections, and feelings he has given to man remain, it is impossible to heal a wound which strikes so deep into the soul.—When you have given to a plaintiff, in damages, all that figures can number, it is as nothing;—he goes away hanging down his head in sorrow, accompanied by his wretched family, dispirited and dejected. Nevertheless, the law has given a civil action for adultery, and, strange to say, it has given *nothing else*.—The law commands that the injury shall be compensated (as far as it is practicable) IN MONEY, because Courts of *Civil* Justice have no other means of compensation THAN *money*; and the only question, therefore, and which *you* upon your oaths are to decide, is this: has the plaintiff sustained an injury up to the extent which he has complained of? Will twenty thousand pounds place him in the same condition of comfort and happiness that he enjoyed before the adultery, and which the adulterer has deprived him of? You know that it will not.—Ask your own hearts the question, and you will receive the same answer.—I should be glad to know, then, upon what principle, as it regards the *private* justice, which the plaintiff has a right to, or upon what principle, as the example of that justice affects the public and the remotest generations of mankind, you can reduce this demand even in a single farthing.

This is a doctrine which has been frequently countenanced by the noble and learned lord who lately presided in the court of king's bench; but his lordship's reasoning on the subject has been much misunderstood, and frequently misrepresented.—The noble lord is supposed to have said, that although a plaintiff may not have sustained an injury by adultery to a given amount, yet that large damages, for the sake of public example, should be given.—He never said any such thing.—He said that which law and morals dictated to him, and which will support his reputation as long as law and morals have a footing in the world.—He said that every plaintiff had a right to recover damages *up to the extent of the injury he had received*, and that public example stood in the way of showing *favor* to an adulterer, by reducing the damages below the sum, which the jury

would otherwise consider as the lowest compensation for the wrong. If the plaintiff shows you that he was a most affectionate husband; that his parental and conjugal affections were the solace of his life; that for nothing the world could bestow in the shape of riches or honors, would he have bartered one moment's comfort in the bosom of his family, he shows you a wrong *that no money can compensate;*—nevertheless, if the injury is only mensurable in money, and if you are sworn to make upon your oaths a pecuniary compensation, though I can conceive that the damages when given to the extent of the declaration, and you can give no more, may fall short of what your consciences would have dictated, yet I am utterly at a loss to comprehend upon what principle they can be *lessened.*—But then comes the defendant's counsel, and says, "It is true that the injury cannot be compensated by the sum which the plaintiff has demanded; but you will consider the miseries my client must suffer, if you make him the object of a severe verdict.—You must, therefore, regard him with compassion; though I am ready to admit the plaintiff is to be compensated for the injury he has received."

Here, then, lord Kenyon's doctrine deserves consideration.—"He who will mitigate damages below the fair estimate of the wrong which he has committed, must do it upon some principle which the policy of the law will support."

Let me then examine whether the defendant is in a situation which entitles him to have the damages against him *mitigated,* when private justice to the injured party calls upon you to give them TO THE UTMOST FARTHING. The question will be—on what principle of mitigation he can stand before you? I had occasion, not a great while ago, to remark to a jury, that the wholesome institutions of the civilized world came seasonably in aid of the dispensations of Providence for our well-being in the world. If I were to ask, what it is that prevents the prevalence of the crime of incest, by taking away those otherwise natural impulses, from the promiscuous gratification of which we should become like the beasts of the field, and lose all the intellectual endearments which are at once the pride and the happiness of man?—What is it that renders our houses pure, and our families innocent?—It is that by the wise institutions of all civilized nations, there is placed a kind of guard against the human passions, in that sense of impropriety and dishonor, which the law has raised up, and impressed with almost the force of a second nature.—This wise and politic restraint beats down, by the habits of the mind, even a propensity to incestuous commerce, and opposes those inclinations, which nature, for wise purposes, has implanted in our breasts at the approach of

the other sex.—It holds the mind in chains against the seductions of beauty.—It is a moral feeling in perpetual opposition to human infirmity.—It is like an angel from heaven placed to guard us against propensities which are evil.—It is *that* warning voice, gentlemen, which enables you to embrace your daughter however lovely, without feeling that you are of a different sex.—It is *that* which enables you, in the same manner, to live familiarly with your nearest female relations, without those desires which are natural to man.

Next to the tie of blood (if not, indeed, before it,) is the sacred and spontaneous relation of friendship. The man who comes under the roof of a married friend, ought to be under the dominion of the same moral restraint: and, thank God, generally is so, from the operation of the causes which I have described.—Though not insensible to the charms of female beauty, he receives its impressions under an habitual reserve, which honor imposes.—Hope is the parent of desire, and honor tells him he must not hope.—Loose thoughts may arise, but they are rebuked and dissipated—

> "Evil into the mind of God or man
> May come and go, so unapprov'd, and leave
> No spot or blame behind."

Gentlemen, I trouble you with these reflections, that you may be able properly to appreciate the guilt of the defendant; and to show you, that you are not in a case where large allowances are to be made for the ordinary infirmities of our imperfect natures. When a man does wrong in the heat of *sudden* passion—as, for instance, when, upon receiving an affront, he rushes into immediate violence, even to the deprivation of life, the humanity of the law classes his offence amongst the lower degrees of homicide; it supposes the crime to have been committed before the mind had time to parley with itself.—But is the criminal act of such a person, however disastrous may be the consequence, to be compared with that of the defendant?—Invited into the house of a friend,—received with the open arms of affection, as if the same parents had given them birth and bred them;—in THIS situation, this most monstrous and wicked defendant deliberately perpetrated his crime; and, shocking to relate, not only continued the appearances of friendship, after he had violated its most sacred obligations, but continued them as a cloak to the barbarous repetitions of his offence—writing letters of regard, whilst, perhaps, he was the father of the last child, whom his injured friend and companion was embracing and cherishing as his own.—What protection can such conduct possibly receive from the humane consideration of the law for sudden and violent passions? A passion for

a woman is progressive—it does not, like anger, gain an uncontrolled ascendency in a moment, nor is a modest matron to be seduced in a day. Such a crime cannot, therefore, be committed under the resistless dominion of *sudden* infirmity; it must be *deliberately, wilfully*, and *wickedly* committed.—The defendant could not possibly have incurred the guilt of this adultery, without often passing through his mind (for he had the education and principles of a gentleman) the very topics I have been insisting upon before you for his condemnation.—Instead of being suddenly impelled towards mischief, without leisure for such reflections, he had innumerable difficulties and obstacles to contend with.—He could not but hear in the first refusals of this unhappy lady, everything to awaken conscience, and even to excite horror.—In the arguments he must have employed to seduce *her* from *her* duty, he could not but recollect, and wilfully trample upon *his own*. He was a year engaged in the pursuit—he resorted repeatedly to his shameful purposes, and advanced to it at such intervals of time and distance, as entitle me to say, that he determined in cold blood to enjoy a future and momentary gratification, at the expense of every principle of honor which is held sacred amongst gentlemen, even where no laws interpose their obligations or restraints.

I call upon you, therefore, gentlemen of the jury, to consider well this case, for it is *your* office to keep human life in tone—*your* verdict must decide whether such a case can be indulgently considered, without tearing asunder the bonds which unite society together.

Gentlemen, I am not preaching a religion which men can scarcely practise.—I am not affecting a severity of morals beyond the standard of those whom I am accustomed to respect, and with whom I associate in common life.—I am not making a stalking-horse of adultery, to excite exaggerated sentiment.—This is not the case of a gentleman meeting a handsome woman in a public street, or in a place of public amusement; where, finding the coast clear for his addresses, without interruption from those who should interrupt, he finds himself engaged (probably the successor of another) in a vain and transitory intrigue.—It is not the case of him who, night after night, falls in with the wife of another to whom he is a stranger, in the boxes of a theatre, or other resorts of pleasure, inviting admirers by indecent dress and deportment, unattended by anything which bespeaks the affectionate wife and mother of many children.—Such connexions may be of evil example, but I am not here to reform public manners, but to demand private justice.—It is impossible to assimilate the sort of cases I have alluded to, which ever will be occasionally occurring, with this

atrocious invasion of household peace; this portentous disregard of everything held sacred amongst men good or evil. Nothing, indeed, can be more affecting than even to be called upon to state the evidence I must bring before you; I can scarcely pronounce to you that the victim of the defendant's lust was the mother of nine children, seven of them females and infants, unconscious of their unhappy condition, deprived of their natural guardian, separated from her for ever, and entering the world with a dark cloud hanging over them.—But it is not in the descending line alone that the happiness of this worthy family is invaded.—It hurts me to call before you the venerable progenitor of both the father and the children, who has risen by extraordinary learning and piety to his eminent rank in the Church, and who, instead of receiving, unmixed and undisturbed, the best consolation of age, in counting up the number of his descendants, carrying down the name and honor of his house to future times, may be forced to turn aside his face from *some of them*, that bring to his remembrance the wrongs which now oppress him, and which it is his duty to forget, because it is his otherwise impossible, duty to forgive them.

Gentlemen, if I make out this case by evidence (and, if I do not, forget everything you have heard, and reproach me for having abused your honest feelings,) I have established a claim for damages that has no parallel in the annals of fashionable adultery.—It is rather like the entrance of Sin and Death into this lower world.—The undone pair were living like our first parents in Paradise, till this demon saw and envied their happy condition.—Like them, they were in a moment cast down from the pinnacle of human happiness into the very lowest abyss of sorrow and despair. In one point, indeed, the resemblance does not hold, which, while it aggravates the crime, redoubles the sense of suffering.—It was not from an enemy, but from a friend, that this evil proceeded. I have just had put into my hand, a quotation from the Psalms upon this subject, full of that unaffected simplicity which so strikingly characterizes the sublime and sacred poet:

"It is not an open enemy that hath done me this dishonor, for then I could have borne it.

"Neither was it mine adversary that did magnify himself against me; for then, peradventure, I would have hid myself from him.

"But it was even *thou*, my companion, my guide, mine own familiar friend."

This is not the language of counsel, but the inspired language of truth I ask you solemnly, upon your honors and your oaths, if you would exchange the plaintiff's former situation

for his present, for an hundred times the compensation he requires at your hands. I am addressing myself to affectionate husbands and to the fathers of beloved children.—Suppose I were to say to you, there is twenty thousand pounds for you—embrace your wife for the last time, and the child that leans upon her bosom and smiles upon you—retire from her house and make way for the adulterer—wander about an object for the hand of scorn to point its slow unmoving finger at—think no more of the happiness and tranquillity of your former state—I have destroyed them for ever; but never mind—don't make yourself uneasy—here is a draft upon my banker, it will be paid at sight—there is no better man in the city.—I can see you think I am mocking you, Gentlemen, and well you may; but it is the very pith and marrow of this cause. It is impossible to put the argument in mitigation of damages in plain English, without talking such a language, as appears little better than insults to your understandings, dress it up as you will.

But it may be asked,—if no money can be an adequate or indeed any compensation, why is Mr. Markham a plaintiff in a CIVIL ACTION? Why does he come here for money?—Thank God, Gentlemen, IT IS NOT MY FAULT. I take honor to myself, that I was one of those who endeavored to put an end to this species of action, by the adoption of a more salutary course of proceeding.—I take honor to myself, that I was one of those who supported in Parliament, the adoption of a law to pursue such outrages with the terrors of criminal justice. I thought then, and I shall always think, that every act *malum in se* directly injurious to an individual, and most pernicious in its consequences to society, should be considered to be a misdemeanor. Indeed I know of no other definition of the term: the Legislature, however, thought otherwise, and I bow to its decision; but the business of this day may produce some changes of opinion on the subject. I never meant that *every* adultery was to be similarly considered. Undoubtedly there are cases where it is comparatively venial, and Judges would not overlook the distinctions.—I am not a pretender to any extraordinary purity.—My severity is confined to cases in which there can be but one sentiment amongst men of honor, as to the offence, though they may differ in the mode and measure of its correction.

It is this difference of sentiment, Gentlemen, that I am alone afraid of; I fear you may think there is a sort of limitation in verdicts, and that you may look to precedents for the amount of damages, though you can find no precedent for the magnitude of the crime; but you might as well abolish the action

altogether, as lay down a principle which limits the consequences of adultery to what it may be convenient for the adulterer to pay. By the adoption of such a principle, or by any mitigation of severity, arising even from an insufficient reprobation of it, you unbar the sanctuary of domestic happiness, and establish a sort of license for debauchery, to be sued out like other licenses, at its price;—a man has only to put money into his pocket, according to his degree and fortune, and he may then debauch the wife or daughter of his best friend, at the expense he chooses to go to.—He has only to say to himself what Iago says to Rodrigo in the play—

"Put money in thy purse—go to—put money in thy purse."

Persons of immense fortunes might, in this way, deprive the best men in the country of their domestic satisfactions, with what to them might be considered as impunity. The most abandoned profligate might say to himself, or to other profligates, "I have suffered judgment by default—let them send down their Deputy Sheriff to the King's-Arms Tavern; I shall be concealed from the eye of the public—I have drawn upon my banker for the *utmost damages*, and I have as much more to spare to-morrow, if I can find another woman whom I would choose to enjoy at such a price." In this manner I have seen a rich delinquent, too lightly fined by courts of criminal justice, throw down his bank-notes to the officers, and retire with a deportment, not of contrition, but contempt.

For these reasons, Gentlemen, I expect from you to day the full measure of damages demanded by the plaintiff. Having given such a verdict, you will retire with a moniter within, confirming that you have done right—you will retire in sight of an approving public, and an approving Heaven. Depend upon it, the world cannot be held together without morals; nor can morals maintain their station in the human heart without religion, which is the corner-stone of the fabric of human virtue.

We have lately had a most striking proof of this sublime and consoling truth, in *one* result, *at least*, of the revolution which has astonished and shaken the earth. Though a false philosophy was permitted *for a season* to raise up her vain fantastic front, and to trample down the Christian establishments and institutions, yet, on a sudden, God said, "Let there be light and there was light." The altars of religion were restored not purged indeed of human errors and superstitions, not reformed in the just sense of reformation, yet the Christian religion is still re-established; leading on to farther reformation;—

fulfilling the hope, that the doctrines and practice of Christianity shall overspread the face of the earth.

Gentlemen, as to us, WE have nothing to wait for;—we have long been in the centre of light—we have a true religion and a free government, AND YOU ARE THE PILLARS AND SUPPORTERS OF BOTH.

I have nothing further to add, except that, since the defendant committed the injury complained of, he has sold his estate, and is preparing to remove into some other country. Be it so. —Let him *remove;* but YOU will have to pronounce the penalty of his *return.* It is for YOU to declare whether such a person is worthy to be a member of our community. But if the feebleness of your jurisdiction, or a commiseration which destroys the exercise of it, shall shelter such a criminal from the consequences of his crimes, individual security is gone, and the rights of the public are unprotected. Whether this be our condition or not, I shall know by your verdict.

MR. ERSKINE'S SPEECH,

FOR THE DEFENDANT IN THE CASE OF HOWARD *vs.* BINGHAM.

GENTLEMEN OF THE JURY,

My learned friend, as counsel for the plaintiff, has bespoke an address from me, as counsel for the defendant, which you must not, I assure you, expect to hear. He has thought it right (partly in courtesy to me, as I am willing to believe,) and in part for the purposes of his cause, that you should suppose you are to be addressed with eloquence which I never possessed, and which if I did, I should be incapable at this moment of exerting; because the most eloquent man, in order to exert his eloquence, must have his mind free from embarrassment on the occasion on which he is to speak:—I am not in that condition. My learned friend has expressed himself as the friend of the plaintiff's family:—He does not regard that family more than I do; and I stand in the same predicament towards my own honorable client and his relations; I know him and them, and because I know them, I regard them also: my embarrassment, however, only arises at being obliged to discuss this question in a public court of justice, because, could it have been the subject of private reference, I should have felt none at all in being called upon to settle it.

Gentlemen, my embarrassment is abundantly increased, when I see present a noble person, high, very high in rank in this kingdom, but not higher in rank than he is in my estimation:—speak of the noble Duke of Norfolk, who most undoubtedly must feel not a little, at being obliged to come here as a witness for the defendant, in the cause of a plaintiff so nearly allied to himself: I am persuaded no man can have so little sensibility, as not to feel that a person in my situation, must be greatly embarrassed in discussing a question of this nature before such an audience, and between such parties as I have described.

Gentlemen, my learned friend desired you would take care not to suffer argument, or observation, or eloquence, to be called into the field, to detach your attention from the evidence in the cause, upon which alone you ought to decide; I wish my learned friend, at the moment he gave you that caution, had not *himself* given testimony of a fact, to which he stood the solitary witness: I wish he had not introduced *his own evidence*

without the ordinary ceremony of being sworn.—I will not follow his example.—I will not tell you, what I know from the conversation of my client, nor give evidence of what I know myself:—my learned friend tells you, that nothing can exceed the agony of mind his client has suffered, and that no words can describe his adoration of the lady he has lost: these most material points of the cause rest, however, altogether on the *single, unsupported, unsworn evidence of the* COUNSEL for the plaintiff.—NO RELATION has been called upon to confirm them, though we are told, that the whole house of Fauconberg, Bellasye, and Norfolk, are in the avenues of the court, ready, it seems, to be called at my discretion:—and yet my learned friend is himself the only witness; though the facts, (and most material facts, indeed, they would have been) might have been proved by so many illustrious persons.

Now, to show you how little disposed I am to work upon you by anything, but by proof; to convince you, how little desirous I am to practise the arts of speech as my only artillery in this cause; I will begin with a few plain dates, and, as you have pens in your hands, I will thank you to write them down.

I shall begin with stating to you, what my cause is, and shall then prove it; not by myself; but by witnesses.

The parties were married on the 24th of April, 1789.—The child that has been spoken of, and in terms which gave me great satisfaction, as the admitted son of the plaintiff, blessed with the affection of his parent, and whom the noble person to whom he may become heir, can look upon without any unpleasant reflection: that child was born on the 12th of August, 1791; take that date, and my *learned friend's admission*, that this child must have been the child of Mr. Howard; an admission which could not have been rationally or consistently made, but upon the implied admission, that no illicit connexion had *existed previously*, by which its existence might have been referred to the defendant.—On this subject, therefore, the plaintiff must be silent;—he cannot say the parental mind has been wrung:—he cannot say hereafter, "NO SON OF MINE SUCCEEDING;" he can say none of these things.—This child was born on the 12th of August 1791, and as Mr. Howard is *admitted* to be the author of its existence (which he must have been, if at all, in 1790,) I have a right to say, that, during all that interval, this gentleman could not have had the least reasonable cause of complaint against Mr. Bingham; his jealousy must, of course, have begun *after* that period; for, had there been grounds for it *before*, there could be no sense in the admission of his counsel, nor any

foundation for that parental consolation which was brought forward in the very front of the cause.

The next dry date is, therefore, the 24th of July, 1793; and I put it to his lordship, that there is no manner of evidence which can be pressed into this cause *previous* to that time. Let me next disembarrass the cause from another assertion of my learned friend, namely, that a divorce cannot take place before the birth of this child; and that, if the child happens to be a son, which is *one* contingency; and if the child so born does not die, which is *another* contingency; and if the noble Duke dies without issue, which is a *third* contingency, *then* this child might inherit the honors of the house of Norfolk: that I deny.—My recent experience tells me the contrary. In a case where Mr. Stewart, a gentleman in Ireland, stood in a similar predicament, the Lords and Commons of England not only passed an Act of Divorce between him and his lady, but, on finding there was no access on the part of the husband, and that the child was not his, they bastardized the issue.

What then remains in this cause?—Gentlemen, there remains only this—In what manner, when you have heard my evidence (for this is a cause, which, like all others, must stand upon evidence,) the plaintiff shall be able to prove what I have the noble judge's authority for saying, he *must* prove, viz. *the loss of the comfort and society of his wife, by the seduction of the defendant*—THAT is the very gist of the action.—The loss of her affection, and of domestic happiness, are the only legal foundations of his complaint.

Now, before anything can be *lost*, it must have *existed*;—before anything can be taken away from a man, he must have had it;—before the seduction of a woman's affections from her husband can take place, he must have possessed her affections.

Gentlemen, my friend, Mr. Mingay, acknowledges this to be the law, and he shapes his case accordingly: he represents his client, a branch of a most illustrious house, as casting the eyes of affection upon a *disengaged* woman, and of rank equal to, or, at least, suitable to his own; he states a marriage of mutual affection, and endeavors to show, that this young couple, with all the ardor of love, flew into each other's embraces: he shows a child, the fruit of that affection, and finishes with introducing the seductive adulterer coming to disturb all this happiness, and to destroy the blessings which he describes: he exhibits the defendant, coming with all the rashness and impetuosity of youth, careless of the consequences, and thinking of nothing but how he could indulge his own lustful appetite, at the expense of another man's honor; while the unhappy husband is represented, as watching with anxiety over his beloved wife, anxious to se

cure her affections, and on his guard to preserve her virtue. Gentlemen, if such a case, or anything resembling it, is established, I shall leave the defendant to whatever measure of damages you choose in your resentment to inflict.

In order, therefore, to examine this matter (and I shall support every syllable that I utter, with the most precise and uncontrovertible proofs;) I will begin with drawing up the curtains of this blessed marriage-bed, whose joys are supposed to have been nipped in the bud, by the defendant's adulterous seduction.

Nothing, certainly, is more delightful to the human fancy, than the possession of a beautiful woman in the prime of health, and youthful passion: it is, beyond all doubt, the highest enjoyment which God in his benevolence, and for the wisest purposes, has bestowed upon his own image: I reverence, as I ought, that mysterious union of mind and body, which, while it continues our species, is the source of all our affections; which builds up and dignifies the condition of human life; which binds the husband to the wife by ties more indissoluble, than laws can possibly create; and which, by the reciprocal endearments arising from a mutual passion, a mutual interest, and a mutual honor, lays the foundation of that parental affection which dies in the brutes, with the necessities of nature, but which reflects back again upon the human parents, the unspeakable sympathies of their offspring, and all the sweet, delightful relations of social existence.—While the curtains, therefore, are yet closed upon this bridal scene, your imaginations will naturally represent to you this charming woman, endeavoring to conceal sensations which modesty forbids the sex, however enamored, too openly to reveal; wishing, beyond adequate expression, what she must not even attempt to express; and seemingly resisting what she burns to enjoy.

Alas, gentlemen! you must now prepare to see in the room of this, a scene of horror, and of sorrow; you must prepare to see a noble lady, whose birth surely required no farther illustration; who had been courted to marriage before she ever heard even her husband's name; and whose affections were irretrievably bestowed upon, and pledged to, my honorable and unfortunate client; you must behold her given up to the plaintiff by the infatuation of parents, and stretched upon this bridal bed as upon a rack;—torn from the arms of a beloved and impassioned youth, himself of noble birth, only to secure the honors of a higher title; a legal victim on the altar of heraldry.

Gentlemen, this is no high coloring for the purpose of a cause;—no words of an advocate can go beyond the plain, unadorned effect of the evidence: I will prove to you, that when

she prepared to retire to her chamber, she threw her desponding arms around the neck of her confidential attendant, and wept upon her as a criminal preparing for execution: I will prove to you, that she met her bridegroom with sighs and tears; the sighs and tears of afflicted love for Mr. Bingham, and of rooted aversion to her husband:—I think I almost hear her addressing him in the language of the poet,—

"I tell thee, Howard,
Such hearts as ours were never pair'd above;
Ill-suited to each other; join'd, not match'd;
Some sullen influence, a foe to both,
Has wrought this fatal marriage to undo us.
Mark but the frame and temper of our minds,
How very much we differ.—Ev'n this day,
That fills thee with such ecstacy and transport,
To me brings nothing that should make me bless it,
To think it better than the day before,
Or any other in the course of time,
That duly took its turn, and was forgotten."

Gentlemen, this was not the sudden burst of youthful disappointment, but the fixed and settled habit of a mind deserving of a happier fate:—I shall prove that she frequently spent her nights upon a couch, in her own apartments, dissolved in tears that she frequently declared to her woman that she would rather go to Newgate than to Mr. Howard's bed; and it will appear by his own confession, that for months subsequent to the marriage she obstinately refused him the privileges of a husband.

To all this it will be said by the plaintiff's counsel (as it has indeed been hinted already,) that disgust and alienation from her husband could not but be expected; but that it arose from her affection for Mr. Bingham.—Be it so, gentlemen.—I readily admit, that if Mr. Bingham's acquaintance with the lady had commenced *subsequent to the marriage*, the argument would be irresistible, and the criminal conclusion against him unanswerable; but has Mr. Howard a right to instruct his counsel to charge my honorable client with seduction when *he himself* was the SEDUCER? My learned friend deprecates the power of what he terms my pathetic eloquence: alas, gentlemen! if I possessed it, the occasion forbids its exertion, because Mr. Bingham has only to defend *himself*, and cannot demand damages from Mr. Howard for depriving him of what was *his* by a title superior to any law which man has a moral right to make: Mr. Howard WAS NEVER MARRIED: God and nature forbid the banns of such a marriage.—If, therefore, Mr. Bingham this day could have, by me, addressed to you his wrongs in the character of a plaintiff demanding reparation, what damages might I not have

asked for him; and, without the aid of this imputed eloquence, what damages might I not have expected?

I would have brought before you a noble youth, who had fixed his affections upon one of the most beautiful of her sex, and who enjoyed hers in return.—I would have shown you their suitable condition;—I would have painted the expectation of an honorable union, and would have concluded by showing her to you in the arms of another, by the legal prostitution of parental choice in the teeth of affection: with child by a rival, and only reclaimed at last, after so cruel and so afflicting a divorce, with her freshest charms despoiled, and her very morals in a manner impeached, by asserting the purity and virtue of her original and spotless choice.—Good God! imagine my client to be PLAINTIFF, and what damages are you not prepared to give him? and yet he is here as DEFENDANT, and damages are demanded against HIM.—Oh, monstrous conclusion!

Gentlemen, considering my client as perfectly safe, under these circumstances, I may spare a moment to render this cause beneficial to the public.

It involves in it an awful lesson; and more instructive lessons are taught in courts of justice than the church is able to inculcate.—Morals come in the cold abstract from pulpits; but men smart under them practically when we lawyers are the preachers.

Let the aristocracy of England, which trembles so much for itself, take heed to its own security: let the nobles of England, if they mean to preserve that pre-eminence which, in some shape or other, must exist in every social community, take care to support it by aiming at that which is creative, and alone creative, of real superiority. Instead of matching themselves to supply wealth, to be again idly squandered in debauching excesses, or to round the quarters of a family shield; instead of continuing their names and honors in cold and alienated embraces, amidst the enervating rounds of shallow dissipation, let them live as their fathers of old lived before them;—let them marry as affection and prudence lead the way, and in the ardors of mutual love, and in the simplicities of rural life, let them lay the foundation of a vigorous race of men, firm in their bodies, and moral from early habits; and instead of wasting their fortunes and their strength in the tasteless circles of debauchery, let them light up their magnificent and hospitable halls to the gentry and peasantry of the country, extending the consolations of wealth and influence to the poor.—Let them but do this,—and instead of those dangerous and distracted divisions between the different ranks of life, and those jealousies of the multitude so often blindly painted as big with destruc-

tion; we should see our country as one large and harmonious family, which can never be accomplished amidst vice and corruption, by wars or treaties, by informations *ex officio* for libels or by any of the tricks and artifices of the state;—would to God this system had been followed in the instance before us! Surely the noble house of Fauconberg needed no farther illustration; nor the still nobler house of Howard, with blood enough to have inoculated half the kingdom.—I desire to be understood to make these observations as general moral reflections, and not personally to the families in question; least of all to the noble house of Norfolk, the head of which is now present; since no man, in my opinion, has more at heart the liberty of the subject, and the honor of our country.

Having shown the feeble expectation of happiness from this marriage, the next point to be considered is this;—Did Mr. Bingham take advantage of that circumstance to increase the disunion?—I answer, No.—I will prove to you that he conducted himself with a moderation and restraint, and with a command over his passions, which I confess I did not expect to find, and which in young men is not to be expected;—I shall prove to you, by Mr. Greville, that on this marriage taking place with the betrothed object of his affections, he went away a desponding man; his health declined; he retired into the country to restore it; and it will appear, that for months afterwards he never saw this lady until by mere accident he met her; and then, so far was he from endeavoring to renew his connexion with her, that she came home in tears, and said, he frowned at her as he passed: this I shall prove to you by the evidence in the cause.

Gentlemen, that is not all;—it will appear that, when he returned to town, he took no manner of notice of her; and that her unhappiness was beyond all power of expression.—How, indeed, could it be otherwise, after the account I have given you of the marriage?—I shall prove besides, by a gentleman who married one of the daughters of a person to whom this country is deeply indebted for his eminent and meritorious service (Marquis Cornwallis,) that from her utter reluctance to her husband, although in every respect honorable and correct in his manners and behavior, he was not allowed *even the privileges of a husband*, for months after the marriage.—This I mentioned to you before, and only now repeat it in the statement of the proofs.—Nothing better, indeed, could be expected;—who can control the will of a mis-matched, disappointed woman?—Who can restrain or direct her passions?—I beg leave to assure Mr. Howard (and I hope he will believe me when I say it,) that I think his conduct towards this lady was just such as

might have been expected from a husband who saw himself to be the object of disgust to the woman he had chosen for his wife: and it is with this view only that I shall call a gentleman to say how Mr. Howard spoke of this supposed, but, in my mind, impossible object of his adoration. How, indeed, is it possible to adore a woman when you know her affections are riveted to another?—It is unnatural!—A man may have that *appetite* which is common to the brutes, and too indelicate to be described; but he can never retain an *affection* which is returned with detestation. Lady Elizabeth, I understand, was, at one time, going in a phaeton:—"There she goes," said Mr. Howard; "God damn her—I wish she may break her neck—I should take care how I got another." This may seem unfeeling behaviour; but in Mr. Howard's situation, Gentlemen, it was the most natural thing in the world, for they cordially hated one another.—At last, however, the period arrived when this scene of discord became insupportable, and nothing could exceed the generosity and manly feeling of the noble person (the Duke of Norfolk) whose name I have been obliged to use in the course of this cause, in his interference to effect that separation which is falsely imputed to Mr. Bingham:—he felt so much commiseration for this unhappy lady, that he wrote to her in the most affecting style:—I believe I have got a letter from his Grace to Lady Elizabeth, dated Sunderland, July the 27th, that is, three days after their separation; but before he knew it had actually taken place: it was written in consequence of one received from Mr. Howard upon the subject:—among other things he says, "*I sincerely feel for you.*" Now, if the Duke had not known at that time that Mr. Bingham had her earliest and legitimate affections, she could not have been an object of that pity which she received: she was, indeed, an object of the sincerest pity, and the sum and substance of this mighty seduction will turn out to be no more than this; that she was affectionately received by Mr. Bingham after the final period of voluntary separation: at four o'clock this miserable couple had parted *by consent*, and the chaise was not ordered till she might be considered as a single woman by the abandonment of her husband. Had the separation been *legal and formal*, I should have applied to his lordship, upon the most unquestionable authorities, to nonsuit the plaintiff; for this action being founded upon the loss of the wife's society, it must necessarily fall to the ground if it appears that the society, though not the marriage union, was interrupted by a previous act of his own: in that hour of separation I am persuaded he never considered Mr. Bingham as an object of resentment or re-

proach; he was the author of his own misfortunes, and I can conceive him to have exclaimed in the language of the poet, as they parted,

"———Elizabeth never lov'd me.
Let no man, after me, a woman wed
Whose heart he knows he has not; though she brings
A mine of gold, a kingdom for her dowry.
For let her seem, like the night's shadowy queen,
Cold and contemplative—he cannot trust her:
She may, she will, bring shame and sorrow on him;
The worst of sorrows, and the worst of shames!"

You have therefore, before you, Gentlemen, two young men of fashion, both of noble families, and in the flower of youth; the proceedings, though not collusive, cannot possibly be vindictive; they are indispensably preliminary to the dissolution of an inauspicious marriage, which never should have existed; Mr. Howard may then profit by an useful, though an unpleasant experience, and be happier with a woman whose mind he may find disengaged; whilst the parents of the rising generation, taking warning from the lesson which the business of the day so forcibly teaches, may avert from their families, and the public, that bitterness of disunion, which, while human nature continues to be itself, will ever be produced to the end of time, from similar conjunctures.

Gentlemen, I have endeavored so to conduct this cause as to offend no man:—I have guarded against every expression which could inflict unnecessary pain; and, in doing so, I know that I have not only served my client's interests, but truly represented his honorable and manly disposition. As the case before you cannot be considered by any reasonable man as an occasion for damages, I might here properly conclude; yet, that I may omit nothing which might apply to any possible view of the subject, I will conclude with reminding you, that my client is a member of a numerous family; that, though Lord Lucan's fortune is considerable, his rank calls for a corresponding equipage and expense: he has other children—one already married to an illustrious nobleman, and another yet to be married to some man who must be happy indeed if he shall know her value: Mr. Bingham, therefore, is a man of no fortune; but the heir only of, I trust, a very distant expectation. Under all these circumstances, it is but fair to believe, that Mr. Howard comes here for the reasons I have assigned, and not to take money out of the pocket of Mr. Bingham to put into his own.—You will, therefore, consider, Gentlemen, whether it would be creditable for you to offer, what it would be disgraceful for Mr. Howard to receive.

MR. ERSKINE'S SPEECH,

IN DEFENCE OF THOMAS HARDY, INDICTED FOR HIGH TREASON IN COMPASSING THE DEATH OF THE KING.

*** We have been induced to insert this celebrated speech entire, because it contains a most learned, eloquent, and successful vindication of the rights of the subject, against the principles of a political prosecution of novel and portentous import. The force and erudition which characterize the technical portions of the argument would justify their introduction, even had it been possible to omit them without material injury to the remainder.—PUB.

GENTLEMEN OF THE JURY,

BEFORE I proceed to the performance of the momentous duty which is at length cast upon me, I desire in the first place to return my thanks to the Judges, for the indulgence I have received in the opportunity of addressing you at this later period of the day, than the ordinary sitting of the Court; when I have had the refreshment which nature but too much required and a few hours' retirement to arrange a little in my mind that immense matter, the result of which I must now endeavor to lay before you. I have to thank *you* also, *Gentlemen*, for the very condescending and obliging manner in which *you* so readily consented to this accommodation;—the Court could only speak for itself, referring me to *you*, whose rests and comforts had been so long interrupted.—I shall always remember your kindness.

Before I advance to the regular consideration of this great cause, either as it regards the evidence or the law, I wish first to put aside all that I find in the speech of my learned friend, the Attorney General, which is either collateral to the merits, or in which I can agree with him.—First then, IN THE NAME OF THE PRISONER, and speaking *his* sentiments, which are well known to be my own also, I concur in the eulogium which you have heard upon the Constitution of our wise forefathers.—But before this eulogium can have any just or useful application, we ought to reflect upon what it is which entitles the Constitution to the praise so justly bestowed upon it. To say nothing at present of its most essential excellence, or rather the very soul of it, viz. the share the people ought to have in their government, by a pure representation, for the assertion of which the prisoner stands arraigned as a traitor before you,—what is

it that distinguishes the government of England from the most despotic monarchies? What—but the security which the subject enjoys in a trial and judgment by his equals; rendered doubly secure as being part of a system of law which no expediency can warp, and which no power can abuse with impunity?

The Attorney General's second preliminary observation, I equally agree to.—I anxiously wish with him that you shall bear in memory the anarchy which is desolating France.—Before I sit down, *I* may perhaps, in MY turn, have occasion to reflect a little upon its probable causes; but waiting a season for such reflections, let us first consider what the evil is which has been so feelingly lamented, as having fallen on that unhappy country.—It is, that under the dominion of a barbarous state necessity, every protection of law is abrogated and destroyed;—it is, that no man can say, under such a system of alarm and terror, that his life, his liberty, his reputation, or any one human blessing, is secure to him for a moment: it is, that, if accused of federalism, or moderatism, or incivism, or of whatever else the changing-fashions and factions of the day shall have lifted up into high treason against the State, he must see his friends, his family, and the light of heaven, no more:—the accusation and the sentence being the same, following one another as the thunder pursues the flash. Such *has been* the state of England,—such *is* the state of France:—and how then, since they are introduced to you for application, ought they in reason and sobriety to be applied? If this prosecution has been commenced (as is asserted) to avert from Great Britain the calamities incident to civil confusion, leading in its issues to the deplorable condition of France; I call upon you, Gentlemen, to avert such calamity from falling upon my client, and through his side upon yourselves and upon our country.—Let not *him* suffer under vague expositions of tyrannical laws, more tyrannically executed.—Let not *him* be hurried away to predoomed execution, from an honest enthusiasm for the public safety.—I ask for him a trial by this applauded Constitution of our country—I call upon you to administer the law to him, according to our own wholesome institutions, by its strict and rigid letter:—however you may eventually disapprove of any part of his conduct, or, viewing it through a false medium, may think it even wicked, I claim for him, as a subject of England, that the law shall decide upon its criminal denomination:—I protest, in his name, against all appeals to speculations concerning consequences, when the law commands us to look only to INTENTIONS.—If the state be threatened with evils, let Parliament adminis-

ter a *prospective* remedy, but let the prisoner hold his life UNDER THE LAW

Gentlemen, I ask this solemnly of the court, whose justice I am persuaded will afford it to me; I ask it more emphatically of you, *the jury*, who are called upon your oaths to make a true deliverance of your countryman, from this charge:—but lastly, and chiefly, I implore it of Him in whose hands are all the issues of life, whose humane and merciful eye expands itself over all the transactions of mankind; at whose command nations rise, and fall, and are regenerated; without whom not a sparrow falleth to the ground;—I implore it of *God himself*, that he will fill your minds with the spirit of justice and of truth; so that you may be able to find your way through the labyrinth of matter laid before you, a labyrinth in which no man's life was ever before involved, in the annals of British trial, nor indeed in the whole history of human justice or injustice.

Gentlemen, the first thing in order, is to look at the indictment itself; of the *whole* of which, or of some *integral part*, the prisoner must be found guilty, or be wholly discharged from guilt.

The indictment charges that the prisoners did maliciously and traitorously conspire, compass and imagine, to bring and put our Lord the King to death; and that to fulfil, perfect, and bring to effect their most evil and wicked purpose (*that is to say, of bringing and putting the King to death,*) "they met, conspired, consulted, and agreed amongst themselves, and other false traitors unknown, to cause and procure a convention to be assembled within the kingdom, WITH INTENT"—*I am reading the very words of the Indictment*, which I entreat you to follow in the notes you have been taking with such honest perseverance)—"WITH INTENT, AND IN ORDER that the persons so assembled at such convention, should and might traitorously, and in defiance of the authority, and against the will of parliament, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government of the country; and to depose the King from the royal state, title, power, and government thereof." This is the first and great leading overt act in the indictment; and you observe that it is not charged as being treason SUBSTANTIVELY AND IN ITSELF, but only as it is committed in pursuance of the treason against the King's PERSON, antecedently imputed;—for the charge is NOT, that the prisoners conspired to assemble a convention to DEPOSE the King, but that they conspired and compassed his DEATH; and that, in order to accomplish that wicked and detestable purpose, i. e. *in order to fulfil the traitorous intention of the mind*

against his LIFE, they conspired to assemble a convention, with a view to depose him. The same observation applies alike to all the other counts or overt acts upon the record, which manifestly indeed lean upon the establishment of the first for their support; because they charge the publication of different writings, and the provision of arms, *not as distinct offences*, but as acts done to excite to the assembling of the same convention, and to maintain it when assembled: but above all, and which must never be forgotten, because they also uniformly charge these different acts as committed in fulfilment of the same traitorous purpose, TO BRING THE KING TO DEATH. You will therefore have three distinct matters for consideration, upon this trial: First, What share (if any) the prisoner had, in concert with others, in assembling *any* convention or meeting of subjects within this kingdom:—Secondly, What were the acts to be done by this convention, when assembled:—and Thirdly, What was the view, purpose, and intention of those who projected its existence. This third consideration, indeed, comprehends, or rather precedes and swallows up the other two; because, before it can be material to decide upon the views of the convention, as pointed to the subversion of the rule and order of the King's political authority (even if such views could be ascribed to it, and brought home even personally to the prisoner,) we shall have to examine whether that criminal conspiracy against the established order of the community, was hatched and engendered by a wicked contemplation to destroy the *natural life and person* of the King; and whether the acts charged and established by the evidence, were done *in pursuance and in fulfilment of the same traitorous purpose.*

Gentlemen, this view of the subject is not only correct, but self-evident;—the subversion of the King's political government, and all conspiracies to subvert it, are crimes of great magnitude and enormity, which the law is open to punish; *but neither of them are the crimes before you.* The prisoner is NOT charged with a conspiracy against the King's POLITICAL GOVERNMENT, but against his NATURAL LIFE. He is not accused of having merely taken steps to depose him from his authority, but with having done so *with the intention to bring him to death.* It is the act with the *specific intention*, and not the act alone, which constitutes the charge. The act of conspiring to depose the King, may indeed be evidence, according to circumstances, of an intention to destroy his natural existence; but never, as a proposition of law, can constitute the intention itself. Where an act is done in pursuance of an intention, surely the intention must first exist; a man cannot do a thing in fulfilment of an intention, unless his mind first conceives that intention.—The

doing an act, or the pursuit of a system of conduct which leads in probable consequences to the death of the King, may legally (if any such be before you) affect the consideration of the traitorous purpose charged by the record, and I am not afraid of trusting you with the evidence.—How far any given act, or course of acting, independently of intention, may lead probably or inevitably to any natural or political consequence, is what we have no concern with; these may be curious questions of casuistry or politics; but it is wickedness and folly to declare that consequences unconnected even with intention or consciousness, shall be synonymous in law with the traitorous mind; although the traitorous mind alone is arraigned, as constituting the crime.

Gentlemen, the first question consequently for consideration, and to which I must therefore earnestly implore the attention of the court, is this:—WHAT IS THE LAW UPON THIS MOMENTOUS SUBJECT?—And recollecting that I am invested with no authority, I shall not presume to offer you anything of my own;—nothing shall proceed from myself upon this part of the inquiry, but that which is merely introductory, and necessary to the understanding of the authorities on which I mean to rely for the establishment of doctrines, not less essential to the general liberties of England, than to the particular consideration which constitutes our present duty.

First then, I maintain that that branch of the statute 25th of Edward the Third, which declares it to be high treason "*when a man doth compass or imagine the death of the King, of his lady the Queen, or of his eldest son and heir*," was intended to guard by a higher sanction than felony, the NATURAL LIVES of the King, Queen, and Prince; and that no act, therefore (either inchoate or consummate,) *of resistance to, or rebellion against, the King's regal capacity*, amounts to *high treason of compassing his death*, unless where they can be charged upon the indictment, and proved to the satisfaction of the jury at the trial, as overt acts, committed by the prisoner, *in fulfilment of a traitorous intention to destroy the King's* NATURAL LIFE.

Secondly, that the compassing the King's death, or, in other words, the traitorous intention to destroy his *natural existence*, is the treason, and not the overt acts, which are only laid as manifestations of the traitorous intention, or, in other words, as EVIDENCE competent to be left to a jury to prove it: and that no conspiracy to levy war against the King, nor any conspiracy against his *regal character or capacity*, is a good overt act of compassing *his death*, unless some force be exerted, or in contemplation, against THE KING'S PERSON: and that such force so exerted or in contemplation, is not substantively the treason of

compassing, but only competent in point of law to establish it if the jury by the verdict of Guilty draw that conclusion of fact from the evidence of the overt act.

Thirdly, that the charge in the indictment, of compassing the king's death, is not laid as legal inducement or introduction, to follow as a legal inference from the establishment of the overt act, but is laid as an averment of a FACT; and, as such, the very gist of the indictment, to be affirmed or negatived by the verdict of guilty or not guilty. It will not (I am persuaded) be suspected by the Attorney General, or by the Court, that I am about to support these doctrines by opposing my own judgment to the authoritative writings of the venerable and excellent lord Hale, whose memory will live in this country, and throughout the enlightened world, as long as the administration of pure justice shall exist; neither do I wish to oppose anything which is to be found in the other learned authorities principally relied upon by the Crown, because all my positions are perfectly consistent with a right interpretation of them: and because, even were it otherwise, I could not expect successfully to oppose them by any reasonings of my own, which can have no weight, but as they shall be found at once consistent with acknowledged authorities, and with the established principles of the English law. I can do this with the greater security, because my respectable and learned friend, the Attorney General, has not cited cases which have been the disgrace of this country in former times, nor asked you to sanction by your judgment those bloody murders, which are recorded by them as acts of English justice; but, as might be expected of an honorable man, his expositions of the law (though I think them frequently erroneous) are drawn from the same sources, which I look up to for doctrines so very different. I find, indeed, throughout the whole range of authorities (*I mean those which the attorney general has properly considered as deserving that name and character*) very little contradiction: for, as far as I can discover, much more entanglement has arisen from now and then a tripping in the expression, than from any difference of sentiment amongst eminent and virtuous judges, who have either examined, or sat in judgment upon this momentous subject.

Gentlemen, before I pursue the course I have prescribed to myself, I desire most distinctly to be understood, that in my own judgment the most successful argument, that a conspiracy to depose the king does not necessarily establish the treason charged upon this record, *is totally beside any possible judgment that you can have to form upon the evidence before you*; since throughout the whole volumes that have been read, I can trace nothing that even points to the imagination of such a conspiracy;

and consequently the doctrines of Coke, Hale, and Forster, on the subject of high treason, might equally be detailed in any other trial that has ever been proceeded upon in this place. But, Gentlemen, I stand in a fearful and delicate situation.—As a supposed attack upon the king's civil authority has been transmitted, by construction, into a murderous conspiracy against his natural person, in the same manner, and by the same arguments, a conspiracy to overturn that civil authority, by direct force, has again been assimilated, *by further construction*, to a design to undermine monarchy by changes wrought through public opinion, enlarging gradually into universal will; so that I can admit no false proposition, however wide I may think it of rational application.—For as there is a CONSTRUCTIVE COMPASSING, so also there is a CONSTRUCTIVE DEPOSING; and I cannot, therefore, possibly know what either of them is separately, nor how the one may be argued to involve the other. There are, besides, many prisoners, whose cases are behind, and whose lives may be involved in your present deliberation; their names have been already stigmatized, and their conduct arraigned in the evidence you have heard, *as a part of the conspiracy*. It is these considerations which drive me into so large a field of argument, because, by sufficiently ascertaining the law in the outset, they who are yet looking up to it for protection, may not be brought into peril.

Gentlemen, I now proceed to establish, that a compassing of the death of the king, within the twenty-fifth of Edward the Third, *which is the charge against the prisoner*, consists in a traitorous intention against his NATURAL LIFE; and that nothing short of your firm belief of that detestable intention, from overt acts which you find him to have committed, can justify his conviction. That I may keep my word with you in building my argument upon nothing of my own, I hope my friend Mr. Gibbs will have the goodness to call me back, if he finds me wandering from my engagement, that I may proceed step by step upon the most venerable and acknowledged authorities of the law.

In this process I shall begin with Lord Hale, who opens this important subject by stating the reason of passing the statute of the twenty-fifth of Edward the Third, on which the indictment is founded.—Lord Hale says, in his Pleas of the Crown, vol. i. page 82, that "at common law there was a great latitude used in raising offences to the crime and punishment of treason, by way of interpretation and arbitrary CONSTRUCTION, which brought in great uncertainty and confusion. Thus accroaching, i. e. ENCROACHING ON ROYAL POWER was an usual charge of treason anciently, though a very uncertain charge; so that no man

could tell what it was, or what defence to make to it." Lord Hale then goes on to state various instances of vexation and cruelty, and concludes with this striking observation: "By these and the like instances that might be given, it appears how ARBITRARY AND UNCERTAIN the law of treason was before the statute of 25th of Edward the Third, whereby it came to pass that almost every offence that was, or seemed to be, a breach of the faith and allegiance due to the king, was by CONSTRUCTION CONSEQUENCE, and INTERPRETATION, raised into the offence of high treason." This is the lamentation of the great Hale upon the state of this country previous to the passing of the statute, which, he says, was passed as a REMEDIAL law, to put an end to them; and lord Coke, considering it in the same light, says, in his third Institute, page 2d, "The parliament which passed this statute was called (as it well deserved) *Parliamentum Benedictum*; and the like honor was given to it by the different statutes which from time to time brought back treasons to its standard, *all agreeing in magnifying and extolling this blessed act.*"—Now this statute, which has obtained the panegyric of these great men, whom the chief justice in his charge looked up to for light and for example, and whom the Attorney General takes also for his guide, would very little have deserved the high eulogium bestowed upon it, if, though avowedly passed to destroy uncertainty in criminal justice, and to beat down the arbitrary constructions of judges, lamented by Hale, as disfiguring and dishonoring the law, it had nevertheless been so worded as to give birth to new constructions and uncertainties, instead of destroying the old ones. It would but ill have entitled itself to the denomination of a blessed statute, if it had not in its enacting letter, which professed to remove doubts, and to ascertain the law, made use of expressions the best known and understood; and it will be found accordingly, that it cautiously did so. It will be found, that, in selecting the expression of COMPASSING THE DEATH, it employed a term of the most fixed and appropriate signification in the language of English law, which not only no judge or counsel, but which no attorney, or attorney's clerk, could misunderstand; because in former ages, before the statute, compassing the death of ANY MAN had been a felony, and what had amounted to such compassing, had been settled in a thousand instances. To establish this, and to show also, by no reasoning of mine, that the term "compassing the death" was intended by the statute, when applied to the King, as high treason, to have the same signification as it had obtained in the law when applied to the subject as a felony, I shall refer to Mr. Justice Forster, and even to a passage cited by the Attorney General himself, which speaks so unequivocally

and unanswerably for itself, as to mock all commentary.—"The ancient writers," *says Forster*, "in treating of felonious homicide, considered the felonious INTENTION manifested by plain facts, in the same light, in point of guilt, as homicide itself. The rule was, *voluntas reputatur pro facto;* and while this rule prevailed, the nature of the offence was expressed by the term COMPASSING THE DEATH. This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the KING, QUEEN, and PRINCE, the statute of treasons has, with great propriety, RETAINED it in its full extent and vigor; and in describing the offence, has likewise RETAINED the ancient mode of expression, when a man doth compass or imagine the death of our lord the king, &c. and thereof be upon sufficient proof, provablement, attainted of open deed, by people of his condition: the words of the statute descriptive of the offence, must, THEREFORE, be strictly pursued in every indictment for this species of treason. IT MUST charge that the defendant did traitorously compass and imagine the king's death; and then go and charge the several acts made use of by the prisoner to effectuate his traitorous purpose; *for the compassing the king's death is the treason*, and the overt acts are charged as the means made use of to effectuate the intentions and imaginations of the heart; and therefore, in the case of the Regicides, the indictment charged that they did traitorously compass and imagine the death of the King, and the cutting off the head was laid as the overt act, and the person who was supposed to have given the mortal stroke was convicted on the same indictment."

This concluding instance, though at first view it may appear ridiculous, is well selected as an illustration: because, though in that case there could be no possible doubt of the intention, since the act of a deliberate execution involves, in common sense, the intention to destroy life, yet still the anomaly of the offence, which exists wholly in the INTENTION, and not in the overt act, required the preservation of the form of the indictment.—It is surely impossible to read this commentary of Forster, without seeing the true purpose of the statute. The common law had anciently considered, even in the case of a fellow-subject, the malignant intention to destroy, as equivalent to the act itself; but that noble spirit of humanity which pervades the whole system of our jurisprudence, had, before the time of King Edward the Third, cut out and destroyed this rule, too rigorous in its *general* application; but, as Forster truly observes in the passage I have read—"This rule, too rigorous in the case of the subject, the statute of treasons RETAINED in the case of the King, *and retained also the very*

expression used by the law when compassing the death of a subject was felony."

The statute, therefore, being expressly made to remove doubts, and accurately to define treason, adopted the ancient expression of the common law, as applicable to felonious homicide, meaning that the life of the sovereign should remain an exception, and that, *voluntas pro facto*, the wicked intention for the deed itself (as it regarded his sacred life) should continue for the rule: and, therefore, says Forster, the statute meaning to RETAIN the law which was before general, RETAINED also the expression. It appears to me, therefore, incontrovertible, not only by the words of the statute itself, but upon the authority of Forster, which I shall follow up by that of Lord Coke and Hale, contradicted by no syllable in their works, as I shall de monstrate, that the statute, as it regarded the security of the King's LIFE, did not mean to enact a new security never known to the common law in other cases, but meant to suffer a common law rule which formerly existed universally, which was precisely known, but which was too severe in common cases, to remain as an exception in favor of the King's security. I do therefore positively maintain, not as an advocate merely, but IN MY OWN PERSON, that, within the letter and meaning of the statute, nothing can be a compassing the death of the King that would not, in ancient times, have been a felony in the case of a subject; for otherwise Forster and Coke, as will be seen, are very incorrect, when they say the statute RETAINED the old law, and the appropriate word to express it; for if it went BEYOND it, it would, on the contrary, have been a NEW rule unknown to the common law, enacted, for the first time, for the preservation of the King's life. Unquestionably the legislature might have made such a rule: but we are not inquiring what it *might* have enacted, but what it *has* enacted. But I ought to ask pardon for having relapsed into any argument of my own upon this subject, when the authorities are more express to the purpose than any language I can use. For Mr. Justice Forster himself, expressly says, Discourse 1st, of High Treason, p. 207, "All the words descriptive of the offence, *viz.* 'If a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the SAME construction they did at common law." —*Is this distinct?—I will read it to you again:* "All the words descriptive of the offence, *viz.* 'If a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the SAME construction they did at common law."

Gentlemen, Mr. Justice Forster is by no means singular in

this doctrine.—Lord Coke, the oracle of the law, and the best oracle that one can consult, when standing for a prisoner charged with treason, as he was the highest prerogative lawyer that ever existed, maintains the same doctrine;—even he, even Coke, the infamous prosecutor of Raleigh, whose character with posterity, as an Attorney General, my worthy and honorable friend would disdain to hold, to be author of all his valuable works; yet even this very Lord Coke himself, holds precisely the same language with Forster.—For, in his commentary on this statute, in his third Institute, p. 5, when he comes to the words, "DOTH COMPASS," he says, "Let us see first what the compassing the death of A SUBJECT was before the making of this statute, when *voluntas reputabatur pro facto*."—Now what is the plain English of this?—The commentator says, I am going to instruct you, the student, who are to learn from me the law of England, what is a compassing of the death of the KING; but that I cannot do, but by first carrying you to look into what was the compassing of the death of A SUBJECT at the ancient common law; because the statute having made a compassing, as applied to the KING, the crime of high treason, which, at common law, was felony in the case of A SUBJECT, it is impossible to define the ONE, without looking back to the records which illustrate the OTHER. This is so directly the train of Lord Coke's reasoning, that in his own singularly precise style of commentating, he immediately lays before his reader a variety of instances from the ancient records and year-books, of compassing the SUBJECT'S DEATH; and what are they?—Not acts wholly collateral to attacks upon life, dogmatically laid down by the law from speculations upon probable or possible consequences; but assaults WITH INTENT TO MURDER; —conspiracies to waylay the person with the SAME INTENTION; and other MURDEROUS machinations. These were only compassings before the statute against the subject's life; and the extension of the expression was never heard of in the law till introduced by the craft of political judges, when it became applicable to crimes agalnst THE STATE. Here again I desire to appeal to the highest authorities for this source of constructive treasons: for although the statute of Edward the Third had expressly directed that nothing should be declared to be treason but cases within its enacting letter, yet Lord Hale says, in his Pleas of the Crown, page 83, that "things were so carried by *parties* and *factions*, in the succeeding reign of Richard the Second, that this statute was but little observed, but as this or that party got the better. So the crime of high treason was in a manner arbitrarily imposed and adjudged, to the disadvantage of the party that was to be judged; which, by various

vicissitudes and revolutions, mischiefed all parties, first and last, and left a great unsettledness and unquietness in the minds of the people, and was one of the occasions of the unhappiness of that King.

"All this mischief was produced by the statute of the 21st of Richard the Second, which enacted, That every man that compasseth or pursueth the death of the King, *or to depose him, or to render up his homage liege*, or he that raiseth people, and rideth against the King, to make war within his realm, and of that be *duly* attainted and adjudged, shall be adjudged a traitor, of high treason against the Crown.

"This," says Lord Hale, "was a great snare to the subject, insomuch that the statute, 1st of Henry Fourth, which repealed it, recited that no man knew how he ought to behave himself, to do, speak, or say, for doubt of such pains of treason; and therefore wholly to remove the prejudice, which might come to the King's subjects, the statute, 1st of Henry Fourth, chap. 10, was made, *which brought back treason to the standard of the 25th of Edward the Third.*"

Now if we look to this statute of Richard the Second, which produced such mischiefs—what are they?—As far as it re-enacted the treason of compassing the King's death, and levying war, it only re-enacted the statute of Edward the Third, but it went beyond it by the loose construction of compassing to depose the King, and raising the people, and riding to make war, or a compassing to depose him, *terms new to the common law. The actual levying of force, to imprison, or depose the King, was already and properly high treason*, within the second branch of the statute; but this statute of Richard the Second enlarged only the crime of compassing, making it extend to a compassing to imprison or depose, which are the great objects of an actual levying of war, and making a compassing to levy war, on a footing with the actual levying it. It seems, therefore, most astonishing, that any judge could be supposed to have decided, as an abstract rule of law, that a compassing to imprison or depose the King was high treason, *substantively, without previous compassing of his death:* since it was made so by this statute, 21st of Richard the Second, and reprobated, stigmatized, and repealed by the statute, 1st of Henry the Fourth, chap. 10. "And so little effect," says Mr. Justice Blackstone, "have over-violent laws to prevent any crime, that within two years after this new law of treason respecting imprisonment and deposing, this very prince was both deposed and murdered."

Gentlemen, this distinction, made by the humane statute of Edward the Third, between treason against the King's natural life, and rebellion against his civil authority, and which the act

of Richard the Second, for a season, broke down, is founded in wise and sound policy. A successful attack may be made upon the King's person by the malignity of an individual, without the combination of extended conspiracy, or the exertions of rebellious force; the law therefore justly stands upon the watch to crush the first overt manifestation of so evil and detestable a purpose.—Considering the life of the Chief Magistrate as infinitely important to the public security, it does not wait for the possible consummation of a crime, which requires neither time, combination, nor force to accomplish, but considers the traitorous purpose as a consummated treason: but the wise and humane policy of our forefathers extended the severity of the rule, *voluntas pro facto*, no farther than they were thus impelled and justified by the necessity; and therefore an intention to levy war and rebellion, not consummated, however manifested by the most overt acts of conspiracy, was not declared to be treason, and upon the plainest principle in the world: The King's REGAL capacity, guarded by all the force and authority of the state, could not, like his NATURAL existence, be overthrown or endangered in a moment, by the first machinations of the traitorous mind of an individual, or even by the unarmed conspiracy of numbers; and therefore this humane and exalted institution, measuring the sanctions of criminal justice by the standard of civil necessity, thought it sufficient to scourge and dissipate unarmed conspirators by a less vindictive proceeding.

These new treasons were, however, at length all happily swept away on the accession of King Henry the Fourth, which brought the law back to the standard of Edward the Third; and, indeed, in reviewing the history of this highly favored island, it is most beautiful, and, at the same time, highly encouraging to observe, by what an extraordinary concurrence of circumstances, under the superintendence of a benevolent Providence, the liberties of our country have been established. Amidst the convulsions, arising from the maddest ambition and injustice, and whilst the State was alternately departing from its poise, on one side, and on the other, the great rights of mankind were still insensibly taking root and flourishing;—though sometimes monarchy threatened to lay them prostrate, though aristocracy occasionally undermined them, and democracy, in her turn, rashly trampled on them, yet they have ever come safely around at last.—This awful and sublime contemplation should teach us to bear with one another, when our opinions do not quite coincide; extracting final harmony from the inevitable differences which ever did, and ever must, exist amongst men.

Gentlemen, the act of Henry the Fourth was scarcely made when it shared the same fate with the venerable law which it restored.—Nobody regarded it.—It was borne down by factions, and, in those days, there were no Judges, as there are now, to hold firm the balance of justice amidst the storms of state;—men could not then, as the prisoner can to-day, look up for protection to magistrates independent of the crown, and awfully accountable in character to an enlightened world. As fast as arbitrary constructions were abolished by one statute, unprincipled Judges began to build them up again, till they were beat down by another: to recount their strange treasons would be tiresome and disgusting; but their system of construction, in the teeth of positive law, may be well illustrated by two lines from Pope:

> "Destroy his fib and sophistry in vain,
> The creature's at his dirty work again."

The system, both judicial and parliamentary, became indeed so intolerable, in the interval between the reign of Henry the Fourth, and that of Philip and Mary, that it produced, in the first year of the latter reign, the most remarkable statute that ever passed in England, repealing not only all former statutes upon the subject, except that of Edward the Third, but also stigmatizing, upon the records of Parliament, the arbitrary CONSTRUCTIONS of Judges, and limiting them, in all times, to every LETTER of the statute. I will read to you Lord Coke's commentary upon the subject. In his third Institute, page 23, he says,—"Before the act of the 25th of Edward the Third, so many treasons had been made and declared, and in such sort penned, as not only the ignorant and unlearned people, but also learned and expert men, were trapped and snared, * * so as the mischief before Edward the Third, of the uncertainty of what was treason and what not, became so frequent and dangerous, as that the safest and surest remedy was by this excellent act of Mary to abrogate and repeal all, but only such as are specified and expressed in this statute of Edward the Third. By which law the safety of both the King and of the subject, and the preservation of the common weal, were wisely and sufficiently provided for, and in such certainty, that *nihil relictum est arbitrio judicis.*"

The whole evil, indeed, to be remedied and avoided by the act of Queen Mary was, the ARBITRIUM JUDICIS, or judicial construction beyond the LETTER of the statute. The statute itself was perfect, and was restored in its full vigor; and to suppose, therefore, that when an act was expressly made, because Judges had built treasons by constructions beyond the law,

they were to be left, consistently with their duty, to go on building AGAIN, is to impute a folly to the Legislature, which never yet was imputed to the framers of this admirable statute. But this absurd idea is expressly excluded, not merely by the statute, according to its plain interpretation, but according to the direct authority of Lord Coke himself, in his commentary upon it. For he goes on to say, "Two things are to be observed, first, that the word EXPRESSED, in the statute of Mary, excludes all *implications or inferences whatsoever*; secondly, that no former attainder, judgment, precedent, resolution, or opinion of judges, or justices, of high treason, other than such as are specified and expressed in the statute of Edward the Third, are to be followed or drawn into example. For the words be plain and direct; that from henceforth no act, deed, or offence shall be taken, had, deemed or adjudged to be high treason, but only such as are declared and expressed in the said act of the 25th of Edward the Third, any act of Parliament or statute after 25th of Edward the Third, or any other declaration or matter, to the contrary notwithstanding."

Gentlemen, if the *letter* of the statute of Mary, when coupled with Lord Coke's commentary, required further illustration, it would amply receive it from the PREAMBLE, which ought to be engraven on the heart of every man who loves the King, or who is called to any share in his councils; for, as Lord Coke observes, in the same commentary: It truly recites, that "the state of a king standeth and consisteth more assured by the love and favor of the subjects towards their Sovereign, than in the dread and fear of laws, made with rigorous and extreme punishment; and that laws, justly made for the preservation of the common weal, without extreme punishment or penalty, are more often and for the most part better kept and obeyed, than laws and statutes made with extreme punishment."

But, Gentlemen, the most important part of Lord Coke's commentary on this statute is yet behind, which I shall presently read to you, and to which I implore your most earnest attention, because I will show you by it, that the unfortunate man, whose innocence I am defending, is arraigned before you of high treason, upon evidence not only wholly repugnant to this particular statute, but such as never yet was heard of in England upon any capital trial:—EVIDENCE which, even with all the attention you have given to it, I defy any one of you, at this moment, to say of what it consists;—EVIDENCE, which (since it must be called by that name) I tremble for my boldness in presuming to stand up for the life of a man, when I am conscious that I am incapable of understanding from it, even what acts are imputed to him;—EVIDENCE, which has consumed four

days in the reading;—not in reading the acts of the prisoner, but the unconnected writings of men, unknown to one another, upon a hundred different subjects;—EVIDENCE, the very listening to which has deprived me of the sleep which nature requires;—which has filled my mind with unremitting distress and agitation, and which, from its discordant unconnected nature, has suffered me to reap no advantage from the indulgence, which I began with thanking you for; but which on the contrary, has almost set my brain on fire, with the vain endeavor of collecting my thoughts upon a subject never designed for any rational course of thinking.

Let us, therefore, see how the unexampled condition I am placed in falls in with Lord Coke upon this subject, whose authority is appealed to by the Crown itself;—and let us go home and burn our books, if they are to blazon forth the law by eulogium, and accurately to define its protector, which yet the subject is to be totally cut off from, when, even under the sanction of these very authors, he stands upon his trial for his existence. Lord Coke says in the same Commentary, page 12, that the statute had not only accurately defined the CHARGE, but the nature of the PROOF on which alone a man shall be attainted of any of the branches of high treason.—"It is to be observed," says he, "that the word in the act of Edward the Third is *provablement: i. e.* Upon direct and manifest proof, not upon conjectural presumptions, or inferences, or strains of wit, but upon good and sufficient proof. And herein the adverb PROVABLY hath a great force, and signifieth a DIRECT PLAIN proof, which word the Lords and Commons in Parliament did use, for that the offence of treason was so heinous, and was so heavily and severely punished, as none other the like and therefore the offender must be PROVABLY attainted, which words are as forcible as upon direct and manifest proof. Note, the word is not PROBABLY, for then *commune argumentum* might have served, but the word is PROVABLY be attainted."

Nothing can be so curiously and tautologously labored as this Commentary, of even that great prerogative lawyer Lord Coke, upon this single word in the statute; and it manifestly shows, that so far from its being the spirit and principle of the law of England, to loosen the construction of this statute, and to adopt rules of construction and proof, unusual in trials for other crimes, on the contrary, the Legislature did not even leave it to the judges to apply the ordinary rules of legal proof to trials under it, but admonished them to do justice in that respect in the very body of the statute.

Lord Hale treads in the same path with Lord Coke, and

concludes this part of the subject by the following most remarkable passage—vol. i. chap. xi. 86.

"Now although the crime of high treason is the greatest crime against faith, duty, and human society, and brings with it the greatest and most fatal dangers to the government, peace, and happiness of a kingdom, or state; and therefore, is deservedly branded with the highest ignominy, and subjected to the greatest penalties that the laws can inflict: it appears, *first*, how necessary it was that there should be some KNOWN, FIXED, SETTLED boundary for this great crime of treason, and of what great importance the statute of the 25th of Edward the Third was, in order to that end. *Second*, How dangerous it is to depart from the LETTER of that statute, and to multiply and enhance crimes into treason by ambiguous and general words, such as accroaching royal power, subverting fundamental laws, and the like. *And Third*, how dangerous it is by construction, and ANALOGY, to make treasons where the LETTER of the law has not done it. For such a method admits of no limits, or bounds, but runs as far and as wide as the wit and invention of accusers, and the detestation of persons accused, will carry men."

Surely the admonition of this supereminent judge ought to sink deep into the heart of every judge, and of every juryman, who is called to administer justice under this statute; above all, in the times, and under the peculiar circumstances which assembled us in this place. Honorable men, feeling as they ought, for the safety of government, and the tranquillity of the country, and naturally indignant against those who are supposed to proceed with more abundant caution, lest they should be surprised by their resentments or their fears, they ought to advance in the judgments they form, by slow and trembling steps;—they ought even to fall back and look at everything again, lest a false light should deceive them, admitting no fact but upon the foundation of clear and precise evidence, and deciding upon no intention that does not result with equal clearness from the fact. This is the universal demand of justice in every case criminal or civil;—how much more then in this, when the judgment is every moment in danger of being swept away into the fathomless abyss of a thousand volumes; where there is no anchorage for the understanding; where no reach of thought can look round in order to compare their points; nor any memory be capacious enough to retain even the imperfect relation that can be collected from them!

Gentlemen, my mind is the more deeply affected with this consideration by a very recent example in that monstrous phenomenon which, under the name of a trial, has driven us out of

Westminster Hall for a large portion of my professional life. No man is less disposed than I am to speak lightly of great state prosecutions, which bind to their duty those who have no other superiors, nor any other control; last of all am I capable of even glancing a censure against those who have led to or conducted the impeachment, because I respect and love many of them, and know them to be amongst the best and wisest men in the nation—I know them indeed so well, as to be persuaded that could they have foreseen the vast field it was to open, and the length of time it was to occupy, they never would have engaged in it; for I defy any man, not illuminated by the Divine Spirit, to say, with the precision and certainty of an English Judge deciding upon evidence before him, that Mr. Hastings is guilty or not guilty:—for who knows what is before him, or what is not?—Many have carried what they knew to their graves, and the living have lived long enough to forget it. Indeed I pray God that such another proceeding may never exist in England; because I consider it as a dishonor to the Constitution, and that it brings, by its example, insecurity into the administration of justice. Every man in civilized society has a right to hold his life, liberty, property, and reputation, under plain laws, that can be well understood, and is entitled to have some *limited specific* part of his conduct, compared and examined by their standard; but he ought not for seven years, no, nor for seven days, to stand as a criminal before the highest human tribunal, until judgment is bewildered and confounded, to come at last, perhaps, to defend himself, broken down with fatigue, and dispirited with anxiety, which indeed, is my own condition at this moment, who am only stating the case of another—What then must be the condition of the unfortunate person whom you are trying?

The next great question is, how the admonitions of these great writers are to be reconciled with what is undoubtedly to be found in other parts of their works; and I think I do not go too far, when I say, that it ought to be the inclination of every person's mind who is considering the meaning of any writer, particularly if he be a person of superior learning and intelligence, to reconcile as much as possible all he says upon any subject, and not to adopt such a construction as necessarily raises up one part in direct opposition to another.

The law itself, indeed, adopts this sound rule of judgment in the examination of every matter which is laid before it, for a sound construction; and the Judges, therefore, are bound by duty as well as reason to adopt it.

It appears to me then, that the only ambiguity which arises or can possibly arise, in the examination of the great authori-

ties, and in the comparison of them with themselves, or with one another, is, from not rightly understanding the meaning of the term OVERT ACT as applied to this species of treason. The moment you get right upon the true meaning and signification of this expression, the curtain is drawn up, and all is light and certainty.

Gentlemen, an overt act of the high treason charged upon this record, I take, with great submission to the Court, to be plainly and simply this:—the high treason charged, is the compassing or imagining (in other words, the intending or designing) the death of the King; I mean his NATURAL DEATH; which being a hidden operation of the mind, an overt act is anything which legally proves the existence of such traitorous design and intention—I say, that the design against the King's natural life, is the high treason under the first branch of the statute; and whatever is evidence, which may be legally laid before a Jury to judge of the traitorous intention, is a legal overt act; because an overt act is nothing but legal evidence embodied upon the record.

The charge of compassing being a charge of *intention*, which, without a manifestation by *conduct*, no human tribunal could try; the statute requires by its very letter (but without which letter reason must have presumed) that the intention to cut off the Sovereign should be manifested by an open act; and as a prisoner charged with an intention, could have no notice how to defend himself without the charge of actions from whence the intention was to be imputed to him, it was always the practice, according to the sound principles of English law, to state upon the face of the Indictment the overt act which the Crown charges as the means made use of by the prisoner to effect his traitorous purpose; and as this rule was too frequently departed from, the statute of the seventh of King William enacted, for the benefit of the prisoner, that no evidence should even be given of any overt act not charged in the Indictment. The charge, therefore, of the overt acts in the Indictment is the notice, enacted by statute to be given to the prisoner for his protection, of the means by which the Crown is to submit to the Jury the existence of the traitorous purpose, which is the crime alleged against him, and in pursuance of which traitorous purpose the overt acts must also be charged to have been committed. Whatever, therefore, is relevant or competent evidence to be received in support of the traitorous intention, is a legal overt act, and what acts are competent to that purpose, is (as in all other cases) matter of law for the Judges; but whether, after the overt acts are received upon the record as competent, and are established by proof upon the

trial, they be sufficient or insufficient in the particular instance to convince the Jury of the traitorous compassing or intention, is a mere matter of FACT, which, from its very nature, can be reduced to no other standard than that which each man's own conscience and understanding erects in his mind, as the arbiter of his judgment. This doctrine is by no means new nor peculiar to high treason, but pervades the whole law, and may be well illustrated in a memorable case lately decided upon writ of error in the House of Lords, and which must be in the memory of all the Judges now present, who took a part in its decision:—there the question was, whether, upon the establishment of a number of facts by legal evidence, the defendant had knowledge of a fact, the knowing of which would leave him defenceless. To draw that question from the Jury to the Judges, I demurred to the evidence, saying, that though each part of it was legally admitted, it was for the law, by the mouth of the Judges, to pronounce whether this fact of knowledge could legally be inferred from it; but the Lords, with the assent of all the Judges, decided, to my perfect satisfaction, that such a demurrer to the evidence was irregular and invalid; *that the province of the Jury over the effect of evidence, ought not to be so transferred to the Judges, and converted into matter of law*;—that what was relevant evidence to come before a Jury, was the province of the Court,—but that the *conclusion* to be drawn from admissible evidence, was the unalienable province of the country.

To apply that reasoning to the case before us:—The matter to be inquired of here is, the fact of the prisoner's intention, as in the case I have just cited it was the fact of the defendant's knowledge. The charge of a conspiracy to depose the King, is therefore laid before you to establish that intention; its competency to be laid before you for that purpose, is not disputed; I am only contending with all reason and authority on my side, that it is to be submitted to your consciences and understandings, whether, even if you believed the overt act, you believe also that it proceeded from a traitorous machination against the life of the King. I am only contending that these two beliefs must coincide to establish a verdict of Guilty. I am not contending, that, under circumstances, a conspiracy to depose the King, and to annihilate his regal capacity, may not be strong and satisfactory evidence of the intention to destroy his LIFE;—but only that in this, as in every other instance, it is for you to collect or not to collect this treason against the King's life, according to the result of your conscientious belief and judgment, from the acts of the prisoner laid before you; and that the establishment of the overt act, even if it were established, does not establish the treason against th [illegible]

BY A CONSEQUENCE OF LAW; but on the contrary, the overt act, though punishable in another shape, as an independent crime, is a dead letter upon this record, unless you believe, *exercising your exclusive jurisdiction over the facts laid before you*, that it was committed in accomplishment of the treason against *the natural life of the King*.

Gentlemen, this particular crime of compassing the King's death, is so complete an anomaly, being wholly seated in unconsummated intention, that the law cannot depart from describing it according to its real essence, even when it is followed by his death;—a man cannot be indicted for killing the King, as was settled in the case of the Regicides of Charles the First; after long consultation among all the Judges:—it was held that the very words of the statute must be pursued, and that although the King was actually murdered, the prisoners who destroyed him could not be charged with the act itself, as high treason, but with the compassing of his death; the very act of the executioner in beheading him, being only laid as the overt act upon the record. There, though the overt act was so connected with, as to be even inseparable from the traitorous intention, yet they were not confounded because of the effect of the precedent in dissimilar cases: and although the Regicides came to be tried immediately on the restoration of the King, in the day-spring of his authority, and before high prerogative Judges, and under circumstances when, in any country but England, their trial would have been a mockery, or their execution have been awarded without even the forms of trial; yet in England, that sacred liberty, which has for ever adorned the constitution, refused to sacrifice to zeal or enthusiasm, either the substance or the forms of justice. Hear what the Chief Baron pronounced upon that occasion:—"These persons are to be proceeded with according to the laws of the land, and I shall speak nothing to you but what are THE WORDS of the law. By the statute of Edward the Third, it is made high treason to compass and imagine the death of the King; in no case else imagination or compassing, without an actual effect, is punishable by law." He then speaks of the sacred life of the King, and speaking of the treason, says:—"The treason consists in the wicked imagination which is not apparent: but when this poison swells out of the heart, and breaks forth into action, in that case it is high treason. *Then what is an overt act of an imagination, or compassing of the King's death? Truly, it is anything which shows what the imagination of the heart is.*"

Indeed, Gentlemen, the proposition is so clear, that one gets confounded in the argument from the very simplicity of it; but still I stand in a situation which I am determined at all events

to fulfil to the utmost; and I shall therefore not leave the matter upon these authorities, but will bring it down to our own times, repeating my challenge to have produced one single authority in contradiction. Lord Coke, in his third Institute, p. 11 and 12, says:—"The Indictment must charge that the prisoner traitorously compassed and imagined the death and destruction of the King." He says too,—"There must be a compassing or imagination; for an act without compassing, intent, or imagination, is not within the act, as appeareth by the express letter thereof. *Et actus non facit reum nisi mens sit rea.*" Nothing in language can more clearly illustrate my proposition.—The Indictment, like every other indictment, must charge distinctly and specifically the crime: that charge must therefore be in the very words of the statute which creates the crime: the crime created by the statute not being the perpetration of any act, but being, in the rigorous severity of the law, the very contemplation, intention, and contrivance of a purpose, directed to an act; that contemplation, purpose, and contrivance, must be found to exist, without which, says Lord Coke, there can be no compassing: and as the intention of the mind cannot be investigated without the investigation of conduct, the overt act is required by the statute, and must be laid in the Indictment and proved. It follows from this deduction, that upon the clear principles of the English law, every act may be laid as an overt act of compassing the King's death, which may be reasonably considered to be relevant and competent to manifest that intention; for, were it otherwise, it would be shutting out from the view of the jury, certain conduct of the prisoner, which might, according to circumstances, lead to manifest the criminal intention of his mind; and as more than one overt act may be laid, and even overt acts of different kinds, though not in themselves substantively treason, the judges appear to be justified in law, when they ruled them to be overt acts of compassing the death of the King; because they are such acts as before the statute of King William, which required that the Indictment should charge all overt acts, would have been held to be relevant proof; of which relevancy of proof the judges are to judge as matter of law; and therefore being relevant proof, must also be relevant matter of charge, because nothing can be relevantly charged which may not also be relevantly admitted to proof. These observations explain to the meanest capacity, in what sense Lord Coke must be understood, when he says, in the very same page, that, "A preparation to depose the King, and to take the King by force and strong hand, until he has yielded to certain demands, is a sufficient overt act to PROVE the compassing of the King's death." He does not say

AS A PROPOSITION OF LAW, that he who prepares to seize the King, compasseth his death, but that a preparation to seize him is a sufficient overt act TO PROVE the compassing; and he directly gives the reason, "because of the strong tendency it has to that end." This latter sentence destroys all ambiguity. I agree perfectly with Lord Coke, and I think every Judge would so decide, upon the general principles of law and evidence, without any resort to his authority for it; and for this plain and obvious reason:—The Judges who are by law to decide upon the relevancy or competency of the proof, in every matter criminal and civil, have immemorially sanctioned the indispensable necessity of charging the traitorous intention as the crime, before it was required by the statute of King William.—As the crime is in its nature invisible and inscrutable, until manifested by such conduct as in the eye of reason is indicative of the intention, which constitutes the crime; no overt act is therefore held to be sufficient to give jurisdiction, even to a jury, to draw the inference in fact of the traitorous purpose, but such acts from whence it may be reasonably inferred; and therefore as the restraint and imprisonment of a Prince has a greater tendency to his destruction than in the case of a private man, such conspiracies are admitted to be laid as overt acts, upon this principle: that if a man does an act from whence either an inevitable or a mainly probable consequence may be expected to follow, much more if he persists deliberately in a course of conduct, leading certainly or probably to any given consequence, it is reasonable to believe that he foresaw such consequence, and by pursuing his purpose with that foreknowledge, the intention to produce the consequence may be fairly imputed. *But then all this is matter of fact for the Jury from the evidence, not matter of law for the Court;* further than it is the privilege and duty of the Judge to direct the attention of the Jury to the evidence, and to state the law as it may result from the different views the jury may entertain of the facts; and if such acts could not be laid as overt acts, they could not be offered in evidence; and if they could not be offered in evidence, the *mind* of the prisoner, which it was the object of the trial to lay open as a clue to his intention, would be shut up and concealed from the Jury, whenever the death of the Sovereign was sought by circuitous but obvious means, instead of by a direct and murderous machination. But when they are thus submitted, as matter of charge and evidence to prove the traitorous purpose which is the crime, the security of the King and of the subject is equally provided for: all the matter which has a relevancy to the crime, is chargeable and provable, not *substantively* to raise from their establishment a *legal* inference, but to raise a presumption in

fact, capable of being weighed by the Jury with all the circumstances of the transaction, as offered to the Crown and the prisoner; their province being finally to say—not what was the possible or the probable consequence of the overt act laid in the Indictment, but whether it has brought them to a safe and conscientious judgment of the guilt of the prisoner; i. e. of his guilt in compassing the death of the King, which is the treason charged in the Indictment. Lord Hale is, if possible, more direct and explicit upon the subject.—He says, page 107, "The words compass or imagine, are of a great latitude; they refer to the purpose or design of the *mind or will*, though the purpose or design takes not effect: but compassing or imagining, singly of itself, is an *internal* act, and, without something to *manifest* it, could not possibly fall under any judicial cognizance but of God alone; and therefore this statute requires such *an overt act* as may render the compassing or imagining capable of a trial and sentence by human judicatures." Now can any man possibly derive from such a writing (proceeding too from an author of the character of Lord Hale,) that an overt act of compassing, might in his judgment be an act committed inadvertently without the intention? Can any man gather from it, that a man, by falling into bad company, can be drawn in to be guilty of this species of treason by rash conduct, while the love of his Sovereign was glowing in his bosom? Can there be any particular acts which can entitle a Judge or Counsel to pronounce *as a matter of law*, what another man intends? or that what a man intends is *not* a matter of fact? Is there any man that will meet the matter fairly, and advance and support that naked proposition? At all events, it is certainly not a proposition to be dealt with publicly; because the man whose mind is capable even of conceiving it, should be treasured up in a museum, and exhibited there as a curiosity, for money.

Gentlemen, all I am asking, however, from my argument, and I defy any power of reason upon earth to move me from it, is this: that the prisoner being charged with *intending the King's death*, YOU are to find whether this charge be founded or unfounded; and that therefore, put upon the record what else you will,—prove what you will,—read these books over and over again,—and let us stand here a year and a day in discoursing concerning them,—still the question must return at last to what YOU and YOU ONLY can resolve—*Is he guilty of that base detestable intention to destroy the King?* NOT whether you incline to *believe* that he is guilty; NOT whether you *suspect*, nor whether it be *probable*; NOT whether he *may* be GUILTY;—no, but that PROVABLY HE IS GUILTY. If you can say this upon the evidence, it is your duty to say so, and you may, with a tran-

quil conscience, return to your families: though by your judgment the unhappy object of it must return no more to his.—Alas! Gentlemen, what do I say? HE has no family to return to;—the affectionate partner of his life has already fallen a victim to the surprise and horror which attended the scene now transacting. But let that melancholy reflection pass—it should not, perhaps, have been introduced—it certainly ought to have no effect upon you who are to judge upon your oaths.—I do not stand here to desire you to commit perjury from compassion;—but at the same time my earnestness may be forgiven, since it proceeds from a weakness common to us all. I claim no merit with the prisoner for my zeal;—it proceeds from a selfish principle inherent in the human heart.—I am Counsel, Gentlemen, for myself. In every word I utter, I feel that I am pleading for the safety of my own life, for the lives of my children after me, for the happiness of my country, and for the universal condition of civil society throughout the world.

But let us return to the subject, and pursue the doctrine of Lord Hale upon the true interpretation of the term overt act, as applicable to this branch of treason. Lord Hale says, and I do beseech most earnestly the attention of the Court and Jury to this passage—"If men conspire the death of the King and thereupon provide weapons, or send letters, this is an overt act within the statute." Take this to pieces, and what does it amount to?—"If men conspire the death of the King," that is the first thing, viz. the *intention*, "and thereupon," that is, in pursuance of that *wicked intention*, "provide weapons, or send letters for the execution thereof," i. e. for the execution of that destruction of the King, which they have meditated, "this is an overt act within the statute." Surely the meaning of all this is self-evident—If the intention be against the King's life, though the conspiracy does not immediately and directly point to his death, yet still the overt act will be sufficient if it be something which has so direct a tendency to that end, as to be competent rational evidence of the intention to obtain it. But the instances given by Lord Hale himself furnish the best illustration—"If men conspire to imprison the King by *force and a strong hand* until he has yielded to certain demands, and *for that purpose gather company, or write letters*, that is an overt act TO PROVE the compassing the King's death, as it was held in Lord Cobham's case by all the Judges." In this sentence Lord Hale does not depart from that precision which so eminently distinguishes all his writings; he does not say, that if men conspire to imprison the King until he yields to certain demands, and for that purpose to do so and so, *This is high treason*—no, nor even an overt act of high treason, though he might in legal

language correctly have said so; but to prevent the possibility of confounding the treason with matter which may be legally charged as relevant to *the proof of it*, he follows Lord Coke's expression in the third Institute, and says, This is an overt act *to prove* the compassing of the King's death: and as if by this mode of expression he had not done enough to keep the ideas asunder, and from abundant regard for the rights and liberties of the subject, he immediately adds, "*But then there must be an overt act* TO PROVE *that conspiracy; and then that overt act* TO PROVE *such design, is an overt act* TO PROVE *the compassing of the death of the King.*" The language of this sentence labors in the ear from the excessive caution of the writer;—afraid that his reader should jump too fast to his conclusion upon a subject of such awful moment, he pulls him back after he has read that a conspiracy to imprison the King is an overt act to prove the compassing of his death, and says to him, But recollect that there must be an overt act TO PROVE, in the first place, that conspiracy to imprison the King, and even then that intention to imprison him, so manifested by the overt act, is but in its turn an overt act TO PROVE the compassing or intention to destroy the King. Nor does the great and benevolent Hale rest even here, but after this almost tedious perspicuity, he begins the next sentence with this fresh caution and limitation, "*but then this must be intended of a conspiracy,* FORCIBLY *to detain and imprison the King.*" What then is a conspiracy forcibly to imprison the King?—surely it can require no explanation: it can only be a *direct* machination to seize and detain his PERSON by rebellious force. Will this expression be satisfied by a conspiracy to seize speculatively upon his authority by the publication of pamphlets, which, by the inculcation of republican principles, may in the eventual circulation of a course of years, perhaps in a course of centuries, in this King's time, or in the time of a remote successor, debauch men's minds from the English constitution, and, by the destruction of monarchy, involve the life of the monarch?—Will any man say, that this is what the law means by a conspiracy against the King's government, supposing even that a conspiracy against his government were synonymous with a design upon his life? Can any case be produced where a person has been found guilty of high treason, under this branch of the statute, where no war has been actually levied, unless where the conspiracy has been a forcible invasion of the King's personal liberty or security? I do not mean to say that a conspiracy to levy war may not, in many instances, be laid as an overt act of compassing the King's death, because the war may be mediately or immediately pointed distinctly to his destruction or captivity; and as Lord

Hale truly says, "small is the distance between the prisons and graves of Princes." But multiply the instances as you will, still the principle presents itself. The truth of this very maxim, built upon experience, renders an overt act of this description rational and competent evidence to be left to a jury of a design against the King's life; but it does not, therefore, change the nature of the crime, nor warrant any Court to declare the overt act to be legally and conclusively indicative of the traitorous intention; because, if this be once admitted to be law, and the jury are bound to find the treason upon their belief of the existence of the overt act, the trial by the country is at an end, and the Judges are armed with an arbitrary uncontrollable dominion over the lives and liberties of the nation.

Gentlemen, I will now proceed to show you that the doctrines which I am insisting on have been held by all the great Judges of this country, in even the worst of times, and that they are, besides, not at all peculiar to the case of high treason, but pervade the whole system of the criminal law. Mr. Justice Forster, so justly celebrated for his writings, lays down the rule thus:—It may be laid down as a general rule, that "indictments founded *upon penal statutes*, ESPECIALLY THE MOST PENAL, *must pursue the statute so as to bring the party within it.*" And this general rule is so expressly allowed to have place in high treason, that it is admitted on all hands, that an indictment would be radically and incurably bad, unless it charged the compassing of the King's death, as the leading and fundamental averment, and unless it formally charged the overt act to be committed in order to effectuate the traitorous purpose. Nobody ever denied this proposition; and the present indictment is framed accordingly. Now it is needless to say that if the benignity of the general law requires this precision in the indictment, the proof must be correspondingly precise, for otherwise the subject would derive no benefit from the strictness of the indictment; the strictness of which can have no other meaning in law or common sense, than the protection of the prisoner; for if, though the indictment must directly charge a breach of the very LETTER of the statute, the prisoner could, nevertheless, be convicted by evidence not amounting to a breach of the LETTER, then the strictness of the indictment would not only be no protection to the prisoner, but a direct violation of the first principles of justice criminal and civil, which call universally for the proof of all material averments in every legal proceeding. But Mr. Justice Forster expressly adverts to the necessary severity of proof, as well as of charge —for he says, that "although a case is brought within the *reason* of a penal statute, and within the *mischief* to be pre

vented, yet if it does not come within the unequivocal *letter*, the benignity of the law interposeth." If the law then be thus severe in the interpretation of every penal proceeding, even down to an action for the killing of a hare or a partridge, are its constructions only to be enlarged and extended as to the statute of high treason, although the single object of passing it was to guard against constructions?

Gentlemen, the reason of the thing is so palpably and invincibly in favor of this analogy, that it never met with a direct opposition. The Attorney General himself distinctly admits it in one part of his address to you, though he seems to deny it in another. I hope that when I state one part of his speech to be in diametrical opposition to another, he will not suppose that I attribute the inconsistency to any defect, either in his understanding or his heart; far from it—they arise, I am convinced, from some of the authorities not being sufficiently understood.

In the beginning of his speech he admits that the evidence must be satisfactory and convincing as to the intention; but in the latter part he seems, as it were, to take off the effect of that admission. I wish to give you the very words. I took them down at the time; and if I do not state them correctly, I desire to be corrected. "I most distinctly disavow," said my Honorable Friend, "every case of construction. I most distinctly disavow any like case of treason not within the letter of the statute. I most distinctly disavow cumulative treason. I most distinctly disavow enhancing guilt by parity of reason. The question undoubtedly is, whether the proof be full and satisfactory to your reasons and consciences that the prisoner is guilty of the treason of compassing the King's death." Gentlemen, I hope that this will always with equal honor be admitted. Now let us see how the rest of the learned Gentleman's speech falls in with this.—For he goes on to say, that it is by no means necessary that the distinct, specific intention should pre-exist the overt act. "If the overt act," says he, "be deliberately committed, it is a compassing." But how so, if the intention be admitted to be the treason? What benefit is obtained by the rigorous demand of the statute, that the compassing of the King's death shall be charged by the indictment as the crime, if a crime different, or short of it, can be substituted for it in the proof? And how can the statute of Richard the Second be said to be repealed, which made it high treason to compass to depose the King, independently of intention upon his life, if the law shall declare, notwithstanding the repeal, that they are synonymous terms, and that the one CONCLUSIVELY involves the other?

Gentlemen, if we examine the most prominent cases, which

have come in judgment before Judges of the most unquestionable authority, and after the constitution had become fixed, you will find everything that I have been saying to you justified and confirmed.

The first great state trial, after the Revolution, was the case of Sir John Freind, a conspirator in the assassination plot. Sir John Freind was indicted for compassing and imagining the death of King William; and the overt acts charged, and principally relied on, were, first, the sending Mr. Charnock into France to King James, to desire him to persuade the French King to send forces over to Great Britain, to levy war against, and to depose the King, and that Mr. Charnock was actually sent; and, secondly, the preparing men to be levied to form a corps to assist in the restoration of the Pretender, and the expulsion of King William, of which Sir John Freind was to be colonel.—In this case, if the proofs were not to be wholly discredited, and the overt acts were consequently established, they went rationally to convince the mind of every man of the pre-existing intention to destroy the King. The conspiracy was not to do an act which, though it might lead eventually and speculatively to the King's death, might not be foreseen or designed by those who conspired together;—the conspiracy was not directed to an event, probably leading to another, and a different one, and from the happening of which second, a third still different might be engendered, which third might again lead in its consequences to a fourth state of things, which might, in the revolution of events, bring on the death of the King, though never compassed or imagined:—Freind's conspiracy, on the contrary, had for its *direct* and *immediate* object the restoration of the Pretender to the throne, by the junction of foreign and rebellious force. In my opinion (and I am not more disposed than others to push things beyond their mark in the administration of criminal justice,) Sir John Freind, if the evidence against him found credit with the jury, could have no possible defence; since the evidence went directly to prove the dispatch of Charnock to France, under his direction, to invite the French King to bring over the Pretender into England, and to place him on the throne. The intention, therefore, of Sir John Freind to cut off King William, was a clear inference from the overt act in question; not an inference of *law* for the Court, but of *fact* for the Jury, under the guidance of plain common sense; because the consequence of the Pretender's regaining the throne, must have been the attainder of King William by act of Parliament.—Some gentlemen seem to look as if they thought not—but I should be glad to hear the position contradicted. I repeat, that if the Pretender had been restored.

as King of England, the legal consequence would have been, that King William would have been a traitor and an usurper, and subject as such to be tried at the Old Bailey, or wherever else the King, who took his place, thought fit to bring him to judgment. From these premises, therefore, there could be no difficulty of inferring the intention; and therefore, if ever a case existed, where, from the clearness of the inference, the province of the Jury might have been overlooked, and the overt act confounded with the treason, it was in the instance of Freind; but so far was this from being the case, that you will find, on the contrary, everything I have been saying to you, since I began to address you, summed up and confirmed by that most eminent magistrate Lord Chief Justice Holt, who presided upon that trial.

He begins thus:—"Gentlemen of the Jury, look ye, the treason that is mentioned in the Indictment is conspiring, compassing, and imagining the death of the King. *To prove the conspiracy and design* of the King's DEATH, two principal overt acts are insisted on." He does not consider the overt act of conspiracy and consultation to be the treason, but evidence (as it undoubtedly was in that case) to prove the compassing the death. The Chief Justice then states the two overt acts above mentioned, and sums up the evidence for and against the prisoner, and leaves the intention to the Jury *as matter of fact*.—For it is not till afterwards that he comes to answer the prisoner's objection in point of law, as the Chief Justice in terms puts it—"*There is another thing*," said Lord Chief Justice Holt, "he did insist upon, *and that is matter of law*. The statute 25th Edward III. was read, which is the great statute about treasons, and that does contain divers species of treason, and declares what shall be treason: one treason is the compassing and imagining the death of the King; another is the levying war. Now says he" (i. e. FREIND,) "Here is no war actually levied; and a bare conspiracy to levy war, does not come within the law against treason." To pause here a little: Freind's argument was this—Whatever my intentions might be—whatever my object of leying war might have been—whatever might have been my design to levy it—however the destruction of the King might have been effected by my conspiracy, if it had gone on—and however it might have been my intention that it should,—it is not treason within the 25th of Edward III.—to which Holt replied, a little incorrectly in language, but right in substance—"*Now for that I must tell you, if there be only a conspiracy to levy war, it is* NOT *treason*:" *i. e.* it is not a substantive treason: it is not a treason in the abstract "But if the design and conspiracy be either to kill

the King, or to depose him, or imprison him, or put any force or restraint upon him," *i. e. personal restraint by force*, "and the way of effecting these purposes *is by levying a war*; there the conspiracy and consultation to levy war for that purpose, is high treason, though no war be levied: for such consultation and conspiracy is *an overt act* PROVING the compassing the death of the King." But what sort of war is it, the bare conspiracy to levy which is an overt act to prove a design against the King's life, though no war be actually levied? Gentlemen, Lord Holt himself illustrates this matter so clearly, that if I had anything at stake short of the honor and life of the prisoner, I might sit down as soon as I had read it:—for if one did not know it to be an extract from an ancient trial, one would say it was admirably and accurately written for the present purpose.—It is a sort of prophetic bird's-eye view of what we are engaged in at this moment:—"There may be war levied (*continues Lord Holt in Freind's case*) without any design upon the King's person which, if *actually levied*, is high treason, though purposing and designing such a levying of war is not so As for example: if persons do assemble themselves, and act with force, in opposition to some law, and hope thereby to get it repealed; this is a levying war, and treason, *though the purposing and designing of it is not so*. So when they endeavor, in great numbers, *with force*, to make reformation of their own heads, without pursuing the methods of the law, that is a levying war, *but the purpose and designing is not so*. But if there be, as I told you, a purpose and design *to destroy the King, and*" (*not* or *to depose him, but* and *to depose him*) "to depose him from his throne, which is proposed and designed to be effected by war that is to be levied; such a conspiracy and consultation to levy war *for bringing this to pass*" (*i. e. for bringing the King's death to pass*) "is an overt act of high treason. So that, Gentlemen, as to that objection which he makes, IN POINT OF LAW, it is of no force, if there be evidence sufficient to convince you that he did conspire to levy war FOR SUCH AN END." And he concludes by again leaving the intention expressly to the Jury.

It is *the end therefore for which* the war is to be levied, and not the conspiracy to do any act which the law considers as a levying of war, that constitutes an overt act of treason against the King's life. The most rebellious movements towards a reform in *government*, not directed against the *King's person*, will not, according to Lord Holt, support the charge before you.—I might surround the House of Commons with fifty thousand men, for the express purpose of forcing them, by duress, to repeal any law that is offensive to me or to pass a

bill for altering elections, without being a possible object of *this* prosecution.—Under the other branch of the statute, I might indeed be convicted of levying war, but not of compassing the King's death; and if I only conspired and meditated this rising to repeal laws by rebellion, I could be convicted of nothing but a high misdemeanor.—I would give my friends the case upon a special verdict, and let them hang me if they could.—How much more might I give it them, if the conspiracy imputed was not to effect a reform by violence, but, as in the case before us, by pamphlets and speeches, which might produce universal suffrage, which universal suffrage might eat out and destroy Aristocracy, which destruction might lead to the fall of Monarchy, and, in the end, to the death of the King.—Gentlemen, if the cause were not too serious, I should liken it to the play with which we amuse our children: This is the cow with the crumpledy horn, which gored the dog, that worried the cat, that ate the rat, &c. ending in the house which Jack built.

I do therefore maintain, upon the express authority of Lord Holt, that, to convict a prisoner, charged with this treason, it is absolutely necessary that you should be satisfied of his *intention against the King's life, as charged in the Indictment*, and that no design against the King's government will even be a legal overt act to be left to a Jury as the evidence of such an intention (much less the substantive and consummate treason,) unless the conspiracy be directly pointed against the person of the King. The case of Lord George Gordon is opposed to this as a high and modern decision; and the Attorney General descended indeed to a very humble and lowly authority, when he sought to maintain his argument by my own speech, as Counsel for that unfortunate person. The passage of it alluded to lies at this moment before me; and I shall repeat it, and re-maintain it to-day.—But let it first be recollected, that Lord George Gordon was not indicted for compassing or imagining the King's death, under the first branch of the statute, but for levying war under the second. It never indeed entered into the conception of any man living, that such an indictment could have been maintained, or attempted against him: I appeal to one of your Lordships now present, for whose learning and capacity I have the greatest and highest respect, and who sat upon that trial, that it was not insinuated from the Bar, much less adjudged by the Court, that the evidence had *any bearing upon the first branch of treason*. I know that I may safely appeal to Mr. Justice Buller for the truth of this assertion; and nothing surely in the passage from my address to the Jury, has the remotest allusion to assimilate a conspiracy against the King's government (collateral to his person) with a treason

against his life. My words were, "*To compass, or imagine the death of the King*; such imagination, or purpose of the mind, visible only to its great Author, being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the government; the life of the Prince being so interwoven with the constitution of the State, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other."

What is this but to say that the King's sacred life is guarded by higher sanctions than the ordinary laws, because of its more inseparable connexion with the public security, and that an attempt to destroy it is therefore made treason against the State? But the Attorney General is, I am sure, too correct in his logic to say, that the converse of the proposition is therefore maintained, and that an attack upon the King's authority, without design upon his person, is affirmed by the same expression to be treason against his life. His correct and enlarged mind is incapable of such confusion of ideas.

But it is time to quit what fell from me upon this occasion, in order to examine the judgment of the Court, and to clothe myself with the authority of that great and venerable magistrate, whose memory will always be dear to me, not only from the great services he rendered to his country in the administration of her justice, but on account of the personal regard and reverence I had for him when living.

Lord Mansfield, in delivering the law to the Jury upon Lord George Gordon's trial (I appeal to the trial itself, and to Mr. Justice Buller, now present, who agreed in the judgment) expressly distinguished between the safety provided for the King's *natural person*, by the first branch of the statute, and the security of his executive power under the second. That great Judge never had an idea that the *natural* person of the King, and the *majesty* of the King, were the same thing, nor that the treasons against them were synonymous: he knew, on the contrary, for he knew all that was to be known, that as *substantive* crimes they never had been blended. I will read his own words:—"There are two kinds of levying war:—one against the person of the King; to imprison, to dethrone, or to kill him; or to make him change measures, or remove counsellors:—the other, which is said to be levied against the majesty of the King, or, in other words, against him in his regal capacity; as when a multitude rise and assemble to attain by force and violence any object of a general public nature; that is levying war against the majesty of the King; and most reasonably so held, because it tends to dissolve all the bonds of society, to destroy property, and to overturn government; and, by force of arms, to restrain

the King from reigning according to law." But then observe, Gentlemen, *the war must be actually levied;* and here again I appeal to Mr. Justice Buller, for the words of Lord Mansfield, expressly referring for what he said to the authority of Lord Holt, in Sir John Freind's case, already cited: "Lord Chief Justice Holt, in Sir John Freind's case, says:—If persons do assemble themselves and act with force, in opposition to some law which they think inconvenient, and hope thereby to get it repealed, this is a levying war and treason. In the present case it don't rest upon an implication that they hoped by opposition to a law to get it repealed; but the prosecution proceeds upon the direct ground, that the object was, by *force and violence*, to compel the Legislature to repeal a law; and therefore, without any doubt, I tell you the joint opinion of us all, that, if this multitude assembled *with intent, by acts of force and violence*, to compel the Legislature to repeal a law, it is high treason." Let these words of Lord Mansfield be taken down, and then show me the man, let his rank and capacity be what they may, who can remove me from the foundation on which I stand, when I maintain that a conspiracy to levy war for the objects of reformation, is not only not the high treason charged by this Indictment, when not directly pointed against the King's person, but that even the actual levying it would not amount to the constitution of the crime. But this is the least material part of Lord Mansfield's judgment, as applicable to the present question; for he expressly considers THE INTENTION of the prisoner, whatever be the act of treason alleged against him, to be all in all. So far from holding the probable or even inevitable consequence of the thing done as constituting the quality of the act, he pronounces them to be nothing as separated from the *criminal design* to produce them. Lord George Gordon assembled an immense multitude around the house of Commons, a system so opposite to that of the persons accused before this commission, that it appears from the evidence they would not even allow a man to come amongst them, because he had been Lord George's Attorney. The Lords and Commons were absolutely blockaded in the chambers of Parliament; and if control was the intention of the prisoner, it must be wholly immaterial what were the deliberations that were to be controlled; whether it was the continuance of Roman Catholics under penal laws, the repeal of the septennial act, or a total change of the structure of the House of Commons, that was the object of violence; the attack upon the legislature of the country would have been the same. That the multitude were actually assembled round the Houses, and brought there by the prisoner, it was impossible for me as his Counsel even to think

of denying, nor that their tumultuous proceedings were not in effect productive of great intimidation, and even danger, to the Lords and Commons, in the exercise of their authority;—neither did I venture to question the law, that the assembling the multitude *for that purpose*, was levying war within the statute. Upon these facts therefore, applied to the doctrines we have heard upon this trial, there would have been nothing in Lord George Gordon's case to try; he must have been instantly, without controversy, convicted. But Lord Mansfield did not say to the Jury (according to the doctrines that have been broached here,) that if they found the multitude assembled by the prisoner, were in fact palpably intimidating and controlling the Parliament in the exercise of their functions, he was guilty of high treason, *whatever his intentions might have been.*—He did not tell them that the inevitable consequence of assembling a hundred thousand people round the Legislature, being a control on their proceedings, was therefore a levying war; though collected from folly and rashness, without the *intention* of violence or control.—If this had been the doctrine of Lord Mansfield, there would (as I said before) have been nothing to try; for I admitted in terms, that his conduct was the extremity of rashness, and totally inconsistent with his rank in the country, and his station as a member of the House of Commons. But the venerable magistrate never for a moment lost sight of the grand ruling principle of criminal justice, that crimes can have no seat but in the mind; and upon the prisoner's *intention*, and upon his *intention alone*, he expressly left the whole matter to the Jury, with the following directions, which I shall read verbatim from the trial; "Having premised these several propositions and principles, the subject matter for your consideration naturally resolves itself into two points:

"First, Whether this multitude did assemble and commit acts of violence, with intent to terrify and compel the Legislature to repeal the act called Sir George Saville's—If upon this point your opinion should be in the negative, that makes an end of the whole, and the prisoner ought to be acquitted: but if your opinion should be, that *the intent of this multitude*, and the violence they committed, was to force a repeal, there arises a second point—

"Whether the prisoner at the bar incited, encouraged, promoted, or assisted in raising this insurrection, and the terror they carried with them, *with the intent* of forcing a repeal of this law.

"Upon these two points, which you will call your attention to, depends the fate of this trial; for if either the multitude had *no such intent, or supposing they had, if the prisoner was no cause*,

did not excite, and took no part in conducting, counselling, or fomenting the insurrection, the prisoner ought to be acquitted; and there is no pretence that he personally concurred in any act of violence."

I therefore consider the case of Lord George Gordon, as a direct authority in my favor.

To show that a conspiracy to depose the King, independently of ulterior intention against his life, is high treason within the statute, the Attorney General next supposes that traitors had conspired to depose King William, but still to preserve him as Stadtholder in Holland, and asks whether that conspiracy would not be a compassing his death; to that question I answer, that it would not have been a compassing the death of King William, provided the conspirators could have convinced the Jury that their firm and *bonâ fide* intention was to proceed no further, and that, under that belief and impression, the Jury (as they lawfully might) had negatived by their finding the fact of the intention against the King's natural existence. I have no doubt at all, that, upon such a finding, no judgment of treason could be pronounced: but the difficulty would be, to meet with a Jury, who, upon the bare evidence of such a conspiracy, would find such a verdict. There might be possible circumstances to justify such a negative of the intention, but they must come from the prisoner. In such a case the Crown would rest upon the conspiracy to depose, which would be *primâ facie* and cogent evidence of the compassing, and leave the hard task of rebutting it, on the defendants:—I say the hard task, because the case put is of a direct rebellious force, acting against the King; not only abrogating his authority, but imprisoning and expelling his person from the kingdom. I am not seeking to abuse the reasons and consciences of Juries in the examination of facts, but am only resisting the confounding them with arbitrary propositions of law.

Gentlemen, I hope I have now a right to consider that the existence of the high treason charged against the unfortunate man before you, is a matter of fact for your consideration upon the evidence. To establish this point, has been the scope of all that you have been listening to, with so much indulgence and patience. It was my intention to have farther supported myself, by a great many authorities, which I have been laboriously extracting from the different books of the law; but I find I must pause here, lest I consume my strength in this preliminary part of the case, and leave the rest defective.

Gentlemen, the persons named in the Indictment are charged with a conspiracy to subvert the rule, order, and government of this country; and it is material that you should observe

most particularly the means by which it alleges this purpose was to be accomplished. The charge is not of a conspiracy to hold the Convention in Scotland, which was actually held there; nor of the part they took in its actual proceedings; but the overt act, to which all the others are subsidiary and subordinate, is a supposed conspiracy *to hold a Convention in England*, which never in fact was held; and consequently all the vast load of matter which it has been decided you should hear, that does not immediately connect itself with the charge in question, is only laid before you (as the Court has repeatedly expressed it) to prove that in point of fact such proceedings were had, the quality of which is for your judgment; and as far, and as far only, as they can be connected with the prisoner, and the act which he stands charged with, to be left to you as evidence of the intention with which the holding of the second Convention was projected.

THIS INTENTION is therefore the whole cause—for the charge is not the agreement to hold a Convention, which it is notorious, self-evident, and even admitted that they intended to hold; but the agreement to hold it *for the purpose alleged, of assuming all the authority of the state, and in fulfilment of the main intention against the life of the King.*" Unless, therefore, you can collect this double intention from the evidence before you, the Indictment is not maintained.

Gentlemen, the charge being of a conspiracy, which, if made out in point of fact, involved beyond all controversy, and within the certain knowledge of the conspirators, the lives of every soul that was engaged in it; the first observation which I shall make to you (because in reason it ought to precede all others) is, that every act done by the prisoners, and every sentence written by them, in the remotest degree connected with the charge, or offered in evidence to support it, was done and written in the public face of the world:—the transactions which constitute the whole body of the proof, were not those of a day, but in regular series for two years together; they were not the peculiar transaction of the prisoners, but of immense bodies of the King's subjects, in various parts of the kingdom, assembled without the smallest reserve, and giving to the public, through the channel of the daily newspapers, a minute and regular journal of their whole proceedings. Not a syllable have we heard read, in the week's imprisonment we have suffered, that we had not all of us read for months and months before the prosecution was heard of; and which, if we are not sufficiently satiated, we may read again upon the file of every coffee-house in the kingdom. It is admitted distinctly by the Crown, that a reform in the House of Commons is the ostensible purpose of all the

proceedings laid before you; and that the attainment of that object only, is the grammatical sense of the great body of the written evidence. It rests therefore with the Crown, to show by LEGAL PROOF that this OSTENSIBLE purpose, and the whole mass of correspondence upon the table, was only a cloak to conceal a hidden machination, to subvert by force the entire authorities of the kingdom, and to assume them to themselves. Whether a reform of Parliament be a wise or an unwise expedient; whether, if it were accomplished, it would ultimately be attended with benefits, or dangers to the country, I will not undertake to investigate, and for this plain reason; because it is wholly foreign to the subject before us.—But when we are trying the integrity of men's intentions, and are examining whether their complaints of defects in the representation of the House of Commons, be *bonâ fide*, or only a mere stalking-horse for treason and rebellion, it becomes a most essential inquiry, whether they be the first who have uttered these complaints;—whether they have taken up notions for the first time, which never occurred to others; and whether, in seeking to interfere practically in an alteration of the Constitution, they have manifested, by the novelty of their conduct, a spirit inconsistent with affection for the government, and subversive of its authority. Gentlemen, I confess for one (for I think the safest way of defending a person for his life before an enlightened tribunal, is to defend him ingenuously,) I confess for one, that if the defects in the constitution of Parliament, which are the subject of the writings, and the foundation of all the proceedings before you, had never occurred to other persons at other times, or if not new, they had only existed in the history of former conspiracies, I should be afraid you would suspect, at least, that the authors of them were plotters of mischief.—In such a case I should naturally expect that you would ask yourselves this question—Why should it occur to the prisoner at the bar, and to a few others in the year 1794, immediately after an important revolution in another country, to find fault, on a sudden, with a constitution which had endured for ages, without the imputation of defect, and which no good subject had ever thought of touching with the busy hand of reformation? I candidly admit that such a question would occur to the mind of every reasonable man, and could admit no favorable answer.—But surely this admission entitles me, on the other hand, to the concession, that if, in comparing their writings, and examining their conduct with the writings and conduct of the best and most unsuspected persons in the best and most unsuspected times, we find them treading in the paths which have distinguished their highest superiors; if we find them only ex-

posing the same defects, and pursuing the same or similar courses for their removal,—it would be the height of wickedness and injustice to torture expressions, and pervert conduct into treason and rebellion, which had recently lifted up others to the love of the nation, to the confidence of the sovereign, and to all the honors of the state. The natural justness of this reasoning is so obvious, that we have only to examine the fact; and, considering under what auspices the prisoners are brought before you, it may be fit that I should set out with reminding you, that the great Earl of Chatham began and established the fame and glory of his life upon the very cause which my unfortunate clients were engaged in, and that he left it as an inheritance to the present minister of the Crown, as the foundation of his fame and glory after him; and his fame and glory were accordingly raised upon it; and if the Crown's evidence had been carried as far back as it might have been (for the institution of only one of the two London Societies is before us,) you would have found that the Constitutional Society owed its earliest credit with the country, if not its very birth, to the labor of the present minister, and its professed principles to his Grace the Duke of Richmond, high also in his Majesty's present Councils, whose plan of reform has been clearly established by the whole body of the written evidence, and by every witness examined for the Crown, to have been the type and model of all the Societies in the supposed conspiracy, and uniformly acted upon in form and in substance by the prisoner before you, up to the very period of his confinement.

Gentlemen, the Duke of Richmond's plan was universal suffrage and annual Parliaments; and urged too with a boldness, which, when the comparison comes to be made, will leave in the back-ground the strongest figures in the writings on the table. I do not say this sarcastically; I mean to speak with the greatest respect of his Grace, both with regard to the wisdom and integrity of his conduct; for although I have always thought in politics with the illustrious person whose letter was read to you; although I think, with Mr. Fox, that annual Parliaments and universal suffrage would be nothing like an improvement in the Constitution; yet I confess that I find it easier to say so than to answer the Duke of Richmond's arguments on the subject; and I must say besides, speaking of his Grace from a long personal knowledge, which began when I was Counsel for his relation Lord Keppel, that, independently of his illustrious rank, which secures him against the imputation of trifling with its existence, he is a person of an enlarged understanding, of extensive reading, and of much reflection; and that his book cannot therefore be considered as the effusion

of rashness and folly, but as the well-weighed, though perhaps erroneous, conclusions drawn from the actual condition of our affairs, viz. that without a speedy and essential reform in Parliament (and there my opinion goes along with him) the very being of the country, as a great nation, would be lost. This plan of the Duke of Richmond was the grand main-spring of every proceeding we have to deal with;—you have had a great number of loose conversations reported from Societies, on which no reliance can be had: sometimes they have been garbled by spies, sometimes misrepresented by ignorance; and even, if correct, have frequently been the extravagances of unknown individuals, not even uttered in the presence of the prisoner, and totally unconnected with any design; for whenever their proceedings are appealed to, and their real object examined, by living members of them, brought before you by the Crown, to testify them under the most solemn obligations of truth, they appear to have been following, *in form and in substance, the plans adopted within our memories, not only by the Duke of Richmond, but by hundreds of the most eminent men in the kingdom.* The Duke of Richmond formally published his plan of reform in the year 1780, in a letter to Lieutenant Colonel Sharman, who was at that time practically employed upon the same object in Ireland; and this is a most material part of the case; because you are desired to believe that the terms CONVENTION, and DELEGATES, and the holding the one and sending the other, were all collected from what had recently happened in France, and were meant as the forma. introduction of her republican constitution; but they who desire you to believe all this, do not believe it themselves; because they know certainly, and it has indeed already been proved by their own witnesses, that Conventions of Reformers were held in Ireland, and Delegates regularly sent to them, whilst France was under the dominion of her ancient government.—They knew full well that Colonel Sharman, to whom the Duke's letter was addressed, was at that very moment supporting a Convention in Ireland, at the head of ten thousand men in arms, for the defence of their country, without any commission from the King, any more than poor Franklow had, who is now in Newgate, for regimenting sixty. These volunteers asserted and saved the liberties of Ireland, and the King would, at this day, have had no more subjects in Ireland than he now has in America, if they had been treated as traitors to the government. It was never imputed to Colonel Sharman and the volunteers, that they were in rebellion;—yet they had arms in their hands, which the prisoners never dreamed of having; whilst a grand general Convention was actually sitting under their auspices at

the Royal Exchange of Dublin, attended by regular Delegates from all the counties in Ireland.—And who were these Delegates?—I will presently tear off their names from this paper, and hand it to you.—They were the greatest, the best, and proudest names in Ireland;—men who had the wisdom to reflect (before it was too late for reflection) that greatness is not to be supported by tilting at inferiors, till, by the separation of the higher from the lower orders of mankind, every distinction is swept away in the tempest of revolution; but in the happy harmonization of the whole community; by conferring upon the people their rights; sure of receiving the auspicious return of affection, and of insuring the stability of the government, which is erected upon that just and natural basis.—Gentlemen, they who put this tortured construction on conventions and delegates, know also that repeated meetings of reforming Societies, both in England and Scotland, had assumed about the same time the style of Conventions, and had been attended by regular delegates long before the phrase had, or could have, any existence in France; and that upon the very model of these former associations, a formal Convention was actually sitting in Edinburgh, with the Lord Chief Baron of Scotland in the chair, for promoting a reform in Parliament, at the very moment the Scotch Convention, following its example, assumed that title.

To return to this letter of the Duke of Richmond:—It was written to Colonel Sharman, in answer to a letter to His Grace, desiring to know his plan of reform, which he accordingly communicated by the letter which is in evidence; and which plan was neither more nor less than that adopted by the prisoners, of surrounding Parliament (unwilling to reform its own corruptions,) NOT by armed men, or by importunate multitudes, but by the still and universal voice of a whole people CLAIMING THEIR KNOWN AND UNALIENABLE RIGHTS.—This is so precisely the plan of the Duke of Richmond, that I have almost borrowed his expressions. His Grace says, "The lesser reform has been attempted with every possible advantage in its favor; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps, it has failed. Not one proselyte has been gained from corruption, nor has the least ray of hope been held out from any quarter, that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan in the same circumstances. From that quarter, therefore, I have nothing to hope. *It is from the people*

at large that I expect any good:—and I am convinced, that the only way to make them feel that they are really concerned in the business, is to contend for their *full, clear, and indisputable rights of universal representation.*" Now how does this doctrine apply to the defence of the prisoner?—I maintain that it has the most decisive application; because this book has been put into the hands of the Crown witnesses, who have one and all of them recognized it, and declared it to have been, *bonâ fide*, the plan which they pursued.

But are the Crown's witnesses worthy of credit?—If they are not, let us return home, since there is no evidence at all, and the cause is over.—All the guilt, if any there be, proceeds from their testimony; if they are not to be believed, they have proved nothing; since the Crown cannot force upon you that part of the evidence which suits its purpose, and ask you to reject the other which does not. The witnesses are either entirely credible, or undeserving of all credit, and I have no interest in the alternative. This is precisely the state of the cause.—For, with regard to all the evidence that is written, let it never be forgotten, that it is not upon me to defend my clients against it, but for the Crown to extract from it the materials of accusation.—They do not contend that the treason is upon the surface of it, but in the latent intention; which intention must, therefore, be supported by extrinsic proof; but which is nevertheless directly negatived and beat down by every witness they have called, leaving them nothing but commentaries and criticisms against both fact and language, to which, for the present, I shall content myself with replying in the authoritative language of the Court in the earliest stage of their proceedings:

"If there be ground to consider the professed purpose of any of these associations, *a reform in Parliament*, as mere color, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country; the case of those embarked in such designs is that which I have already considered. Whether this be so, or not, is mere matter of fact; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out tha the ostensible purpose is a mere veil, under which is concealed a traitorous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence."—To this (though it requires nothing to support it, either in reason or authority) I desire to add the direction of

Lord Chief Justice Holt to the Jury, on the trial of Sir John Perkyns:

"Gentlemen, it is not fit that there should be any strained or forced construction put upon a man's actions when he is tried for his life. You ought to have a full and satisfactory evidence that he is guilty, before you pronounce him so."

In this assimilation of the writings of the societies to the writings of the Duke of Richmond and others, I do not forget that it has been truly said by the Lord Chief Justice, in the course of this very cause, that ten or twenty men's committing crimes, furnishes no defence for other men in committing them. Certainly it does not; and I fly to no such sanctuary; but in trying the prisoner's intentions, and the intentions of those with whom he associated and acted, if I can show them to be only insisting upon the same principles that have distinguished the most eminent men for wisdom and virtue in the country, it will not be very easy to declaim or argue them into the pains of death, whilst our bosoms are glowing with admiration at the works of those very persons who would condemn them.

Gentlemen, it has been too much the fashion of late to overlook the genuine source of all human authority, but more especially totally to forget the character of the British House of Commons as a representative of the people;—whether this has arisen from that assembly's having itself forgotten it, would be indecent for me to inquire into or to insinuate;—but I shall preface the authorities which I mean to collect in support of the prisoner, with the opinion on that subject of a truly celebrated writer, whom I wish to speak of with great respect: I should, indeed, be ashamed, particularly at this moment, to name him invidiously, whilst he is bending beneath the pressure of a domestic misfortune, which no man out of his own family laments more sincerely than I do.—No difference of opinion can ever make me forget to acknowledge the sublimity of his genius, the vast reach of his understanding, and his universal acquaintance with the histories and constitutions of nations; I also disavow the introduction of the writings, with the view of involving the author in any apparent inconsistencies, which would tend, indeed, to defeat rather than to advance my purpose.—I stand here to-day to claim at your hands, a fair and charitable interpretation of human conduct, and I shall not set out with giving an example of uncharitableness.—A man may have reason to change his opinions, or perhaps the defect may be in myself, who collect that they are changed; I leave it to God to judge of the heart—my wish is, that Christian charity may prevail;—that the public harmony, which has been lost, may be restored;—that all England may reunite in the bonds

of love and affection;—and that, when the Court is broken up by the acquittal of the prisoners, all heart-burnings and animosities may cease;—that, whilst yet we work in the light, we may try how we can save our country by a common effort; and that, instead of shamelessly setting one half of society against the other by the force of armed associations, and the terrors of Courts of Justice, our spirits and our strength may be combined in the glorious cause of our country.—By this, I do not mean in the cause of the present war, which I protest against as unjust, calamitous, and destructive; but this is not the place for such a subject—I only advert to it to prevent mistake or misrepresentation.

The history and character of the English House of Commons, was formerly thus described by Mr. Burke: "The House of Commons was supposed originally to be *no part* of *the standing government of this country*, but was considered as a *control* issuing *immediately* from the people, and speedily to be resolved into the mass from whence it arose: in this respect it was in the higher part of government what Juries are in the lower. The capacity of a magistrate being transitory, and that of a citizen permanent, the latter capacity, it was hoped, would of course preponderate in all discussions, not only between the people and the standing authority of the Crown, but between the people and the fleeting authority of the House of Commons itself. It was hoped, that, being of a middle nature, between subject and government, they would feel with a more tender and a nearer interest, everything that concerned the people, than the other remoter and more permanent parts of the legislature.

"Whatever alteration time and the necessary accommodation of business may have introduced, this character can never be sustained, unless the House of Commons shall be made to bear some stamp of the actual disposition of the people at large: it would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical frenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should, in all cases, be wholly untouched by the opinions and feelings of the people out of doors. By this want of sympathy, they would cease to be a House of Commons.

"The virtue, spirit, and essence of a House of Commons consists in its being the express image of the feelings of the nation. It was not instituted to be a control *upon* the people, as of late it has been taught, by a doctrine of the most pernicious tendency, but as a control *for* the people."

He then goes on to say, that to give a technical shape, a color, dress, and duration to popular opinion, is the true office of a House of Commons.—Mr. Burke is unquestionably correct;—the control UPON the people is the King's Majesty, and the hereditary privileges of the Peers;—the balance of the state is the control FOR the people upon both, in the existence of the House of Commons;—but how can that control exist FOR the people, unless they have the actual election of the House of Commons, which, it is most notorious, they have not?—I hold in my hand a state of the representation, which, if the thing were not otherwise notorious, I would prove to have been lately offered in proof to the House of Commons by an honorable friend of mine now present, whose motion I had the honor to second, where it appeared that 12,000 people return near a majority of the House of Commons, and those, again, under the control of about 200. But though these facts were admitted, all redress, and even discussion, was refused.—What ought to be said of a House of Commons that so conducts itself, it is not for me to pronounce; I will appeal, therefore, to Mr. Burke, who says, "that a House of Commons, which in all disputes between the people and administration presumes against the people, which punishes their disorders, but refuses even to inquire into their provocations, is an unnatural, monstrous state of things in the Constitution."

But this is nothing: Mr. Burke goes on afterwards to give a more full description of Parliament, and in stronger language (let the Solicitor General take it down for his reply,) than any that has been employed by those who are to be tried at present as conspirators against its existence.—I read the passage to warn you against considering hard words against the House of Commons as decisive evidence of treason against the King.—The passage is in a well-known work, called, Thoughts on the Causes of the PRESENT Discontents; and such discontents will always be PRESENT whilst their causes continue.—The word PRESENT will apply just as well *now*, and much better than to the times when the honorable Gentlemen wrote his book; for we are now in the heart and bowels of another war, and groaning under its additional burdens. I shall therefore leave it to the learned Gentleman who is to reply, to show us what has happened since our author wrote, which renders the Parliament less liable to the same observations now.

"It must be always the wish of an unconstitutional statesman, that a House of Commons, who are entirely dependent upon him, should have every right of the people entirely dependent upon their pleasure. For it was soon discovered that

the forms of a free, and the ends of an arbitrary government, were things not altogether incompatible.

"The power of the Crown, almost dead and rotten as prerogative, has grown up anew, with much more strength and far less odium, under the name of influence. An influence which operated without noise and violence; which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tended to augment, was an admirable substitute for a prerogative, that, being only the offspring of antiquated prejudices, had moulded in its original stamina irresistible principles of decay and dissolution."

What is this but saying that the House of Commons is a settled and scandalous abuse fastened *upon* the people, instead of being an antagonist power *for* their protection; an odious instrument of power in the hands of the Crown, instead of a popular balance *against* it? Did Mr. Burke mean that the prerogative of the Crown, properly understood and exercised, was an antiquated prejudice? Certainly not; because his attachment to a properly balanced monarchy is notorious:—why then is it to be fastened upon the prisoners, that they stigmatize monarchy, when they also exclaim *only against its corruptions*? In the same manner, when he speaks of the abuses of Parliament, would it be fair to Mr. Burke to argue, from the strict legal meaning of the expression, that he included, in the censure on Parliament, the King's person or majesty, which is part of the Parliament? In examining the work of an author, you must collect the sense of his expressions from the subject he is discussing; and if he is writing of the House of Commons as it affects the structure and efficacy of the government, you ought to understand the word Parliament so as to meet the sense and obvious meaning of the writer.—Why then is this common justice refused to others? Why is the word Parliament to be taken in its strictest and least obvious sense against a poor shoe-maker, or any plain tradesman at a Sheffield club, while it is interpreted in its popular, though less correct acceptation, in the works of the most distinguished scholar of the age? Add to this, that the cases are not at all similar: for Mr. Burke uses the word Parliament *throughout*, when he is speaking of the House of Commons; without any concomitant words which convey an explanation, but the sense of his subject, whereas Parliament is fastened upon the prisoner as meaning something beyond the House of Commons, when it can have no possible meaning beyond it; since from the beginning to the end it is joined with the words *representation of the people*:—

the representation of the people in Parliament!—Does not this most palpably mean the House of Commons, when we know that the people have no representation in either of the other branches of the government?

A letter has been read in evidence from Mr. Hardy to Mr. Fox, where he says their object was universal representation. Did Mr. Fox suppose, when he received this letter, that it was from a nest of republicans, clamoring publicly for an universal representative constitution like that of France? If he had, would he have sent the answer he did, and agreed to present their petition?—They wrote also to the Society of the Friends of the People, and invited them to send delegates to the Convention:—the Attorney General, who has made honorable and candid mention of that body, will not suppose that it would have contented itself with refusing the invitation in terms of cordiality and regard, if, with all the knowledge they had of their transactions, they had conceived themselves to have been invited to the formation of a body, which was to overrule and extinguish all the authorities of the State: yet upon the perversion of these two terms, Parliament and Convention, against their natural interpretation, against a similar use of them by others, and against the solemn explanation of them by the Crown's own witnesses, this whole fabric of terror and accusation stands for its support: letters, it seems, written to other people, are to be better understood by the Gentlemen round this table, who never saw them till months after they were written, than by those to whom they were addressed and sent; and no right interpretation, forsooth, is to be expected from writings when perused in their regular series, but they are to be made distinct by binding them up in a large volume, alongside of others totally unconnected with them, and the very existence of whose authors was unknown to one another.

I will now, Gentlemen, resume the reading of another part of Mr. Burke, and a pretty account it is of this same Parliament: "They who will not conform their conduct to the public good, and cannot support it by the prerogative of the Crown, have adopted a new plan. They have totally abandoned the shattered and old-fashioned fortress of prerogative, and made a lodgment in the strong-hold of Parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into Parliament. There the whole is executed from the beginning to the end: and the power of obtaining their object absolute; and the safety in the proceeding perfect; no rules to confine, nor after reckonings to terrify. For Parliament cannot, with any great propriety, punish others

for things in which they themselves have been accomplices. Thus its control upon the executory power is lost."

This is a proposition universal. It is not that the popular control was lost under this or that administration, but, GENERALLY, that the people have no control in the House of Commons. Let any man stand up and say that he disbelieves this to be the case; I believe he would find nobody to believe him. Mr. Burke pursues the subject thus: "The distempers of monarchy were the great subjects of apprehension and redress in the *last* century—in this, the distempers of Parliament." Here the word Parliament, and the abuses belonging to it, are put in express opposition to the monarchy, and cannot therefore comprehend it; the distempers of Parliament then are objects of serious apprehension and redress. What distempers? Not of this or that year, but the habitual distempers of Parliament? And then follows the nature of the remedy, which shows that the prisoners are not singular in thinking that it is by *the voice of the people only* that Parliament can be corrected. "It is not in Parliament alone," says Mr. Burke, "that the remedy for Parliamentary disorders can be completed; and hardly indeed can it begin there. Until a confidence in government is re-established, the people ought to be excited to a more strict and detailed attention to the conduct of their representatives. Standards for judging more systematically upon their conduct ought to be settled in the meetings of counties and corporations, and frequent and correct lists of the voters in all important questions ought to be procured. By such means something may be done."

It was the same sense of the impossibility of a reform in Parliament, without a general expression of the wishes of the people, that dictated the Duke of Richmond's letter; all the petitions in 1780 had been rejected by Parliament;—this made the Duke of Richmond exclaim, that from that quarter no redress was to be expected, and that from the people alone he expected any good; and he, therefore, expressly invited them to claim and to assert an equal representation as their indubitable and unalienable birthright:—how to assert their rights, when Parliament had already refused them without even the hope, as the Duke expressed it, of listening to them any more? Could the people's rights, under such circumstances, be asserted without rebellion? Certainly they might: for rebellion is, when hands of men within a state oppose themselves, by violence, to the general will, as expressed or implied by the public authority; but the sense of a *whole people*, peaceably collected, and operating by its natural and certain effect upon the public councils, is

not rebellion, but is paramount to, and the parent of, authority itself.

Gentlemen, I am neither vindicating, nor speaking, the language of inflammation or discontent;—I shall speak nothing that can disturb the order of the state; I am full of devotion to its dignity and tranquillity, and would not for worlds let fall an expression in this or in any other place that could lead to disturbance or disorder:—but for that very reason, I speak with firmness of THE RIGHTS OF THE PEOPLE, and am anxious for the redress of their complaints; because I believe a system of attention to them to be a far better security and establishment of every part of the government, than those that are employed to preserve them. The state and government of a country rest, for their support, on the great body of the people, and I hope never to hear it repeated, in any Court of Justice, that peaceably to convene the people upon the subject of their own privileges, can lead to the destruction of the King:—they are the King's worst enemies who hold this language.—It is a most dangerous principle, that the Crown is in jeopardy if the people are acquainted with their rights, and that the collecting them together to consider of them, leads inevitably to the destruction of the sovereign.—Do these gentlemen mean to say, that the King sits upon his throne without the consent, and in defiance of the wishes of the great body of his people, and that he is kept upon it by a few individuals who call themselves his friends, in exclusion of the rest of his subjects?—Has the King's inheritance no deeper or wider roots than this? Yes, Gentlemen, it has—it stands upon the love of the people, who consider their own inheritance to be supported by the King's constitutional authority: this is the true prop of the throne; and the love of every people upon earth will for ever uphold a government, founded, as ours is, upon reason and consent, as long as Government shall be itself attentive to the general interests which are the foundations and the ends of all human authority.—Let us banish then these unworthy and impolitic fears of an unrestrained and an enlightened people;—let us not tremble at the rights of man, but, by giving to men their rights, secure their affections, and, through their affections, their obedience;—let us not broach the dangerous doctrine, that the rights of kings and of men are incompatible.—Our government at the Revolution began upon their harmonious incorporation; and Mr. Locke defended King William's title upon no other principle than the rights of man. It is from the revered work of Mr. Locke, and not from the revolution in France, that one of the papers in the evidence, the most stigmatized, most obviously flowed: for it is proved that Mr. Yorke held in his hand

Mr. Locke upon Government, when he delivered his speech on the Castle Hill at Sheffield, and that he expatiated largely upon it;—well, indeed, might the witness say he expatiated largely, for there are many well-selected passages taken verbatim from the book; and here, in justice to Mr. White, let me notice the fair and honorable manner in which, in the absence of the clerk, he read this extraordinary performance. He delivered it not merely with distinctness, but in a manner so impressive, that, I believe, every man in Court was affected by it.

Gentlemen, I am not driven to defend every expression; some of them are improper undoubtedly, rash and inflammatory; but I see nothing in the whole, taken together, even if it were connected with the prisoner, that goes at all to an evil purpose in the writer. But Mr. Attorney General has remarked upon this proceeding at Sheffield (and whatever falls from a person of his rank and just estimation, deserves great attention,) he has remarked that it is quite apparent they had resolved not to petition.—They had certainly resolved not *at that season* to petition, and that seems the utmost which can be maintained from the evidence. But supposing they had negatived the measure altogether; is there no way by which the people may actively associate for the purposes of a reform in Parliament, but to consider of a petition to the House of Commons? Might they not legally assemble to consider the state of their liberties, and the conduct of their representatives?—Might they not legally form Conventions or Meetings (for the name is just nothing) to adjust a plan of rational union for a wise choice of representatives when Parliament should be dissolved?—May not the people meet to consider their interests preparatory to, and independently of, a petition for any specific object?—My friend seems to consider the House of Commons as a substantive and permanent part of the Constitution;—he seems to forget that the Parliament dies a natural death;—that the people then re-enter into their rights, and that the exercise of them is the most important duty that can belong to social man:—how are such duties to be exercised with effect, on momentous occasions, but by concert and communion?—May not the people assembled in their elective districts, resolve to trust no longer those by whom they have been betrayed? May they not resolve to vote for no man who contributed by his voice to this calamitous war, which has thrown such grievous and unnecessary burdens upon them? May they not say, "We will not vote for those who deny we are their constituents; nor for those who question our clear and natural right to be equally represented?"—Since it is illegal to carry up petitions, and unwise to transact any public business attended

by multitudes, because it tends to tumult and disorder, may they not, for that very reason, depute, as they have done, the most trusty of their societies to meet with one other to consider, without the specific object of petitions, how they may claim, by means which are constitutional, their imprescriptible rights? And here I must advert to an argument employed by the Attorney General, that the views of the societies towards universal suffrage, carried in themselves (however sought to be effected) an implied force upon Parliament:—for that, supposing by invading it with the vast pressure, not of the public arm, but of the public sentiment of the nation, the influence of which upon that assembly is admitted ought to be weighty, it could have prevailed upon the Commons to carry up a bill to the King for universal representation and annual Parliaments, His Majesty was bound to reject it; and could not, without a breach of his coronation oath, consent to pass it into an act;—I cannot conceive where my friend met with this law, or what he can possibly mean by asserting that the King cannot, consistently with his coronation oath, consent to any law that can be stated or imagined, presented to him as the act of the two Houses of Parliament:—he could not, indeed, consent to a bill sent up to him framed by a Convention of Delegates assuming legislative functions; and if my friend could have proved that the Societies, sitting as a Parliament, had sent up such a bill to His Majesty, I should have thought the prisoner, as a member of such a parliament, was at least in a different situation from that in which he stands at present: but as this is not one of the chimeras whose existence is contended for, I return back to ask, upon what authority it is maintained, that universal representation and annual Parliaments could not be consented to by the King, in conformity to the wishes of the other branches of the Legislature:—on the contrary, one of the greatest men that this country ever saw considered universal representation to be such an inherent part of the Constitution, as that the King himself might grant it by his prerogative, even without the Lords and Commons; and I have never heard the position denied upon any other footing than the Union with Scotland.—But be that as it may, it is enough for my purpose that the maxim, that the King might grant universal representation, as a right before inherent in the whole people to be represented, stands upon the authority of Mr. Locke, the man, next to Sir Isaac Newton, of the greatest strength of understanding that England, perhaps, ever had; high too in the favor of King William, and enjoying one of the most exalted offices in the state.—Mr. Locke says, book 2d, ch. 13, sect. 157 and 158—'Things of this world are in so constant a flux, that nothing

remains long in the same state. Thus people, riches, trade, power, change their stations, flourishing mighty cities come to ruin, and prove, in time, neglected desolate corners, whilst other unfrequented places grow into populous countries, filled with wealth and inhabitants. But things not always changing equally, and private interest often keeping up customs and privileges, when the reasons of them are ceased, it often comes to pass, that the governments, where part of the legislative consists of *representatives* chosen by the people, that in tract of time this *representation* becomes very *unequal* and disproportionate to the reasons it was at first established upon. To what gross absurdities the following of custom, when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheep-cote, or more inhabitants than a shepherd is to be found, sends *as many representatives* to the grand assembly of law-makers, as a whole county, numerous in people, and powerful in riches. This strangers stand amazed at, and every one must confess needs a remedy."

"*Salus populi suprema lex*, is certainly so just and fundamental a rule, that he who sincerely follows it, cannot dangerously err. If, therefore, the executive, who has the power of convoking the legislative, observing rather the true proportion, than fashion of *representation*, regulates, not by old custom, but true reason, the *number of members* in all places that have a right to be distinctly represented, which no part of the people, however incorporated, can pretend to, but in proportion to the assistance which it affords to the public, it cannot be judged to have set up a new legislative, but to have restored the old and true one, and to have rectified the disorders which succession of time had insensibly, as well as inevitably introduced; for it being the interest as well as intention of the people to have a fair and *equal representative*, whoever brings it nearest to that, is an undoubted friend to, and establisher of the government, and cannot miss the consent and approbation of the community; *prerogative* being nothing but a power, in the hands of a Prince, to provide for the public good, in such cases, which depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct; whatsoever shall be done manifestly for the good of the people, and the establishing the government upon its true foundations, is, and always will be, just prerogative. Whatsoever cannot but be acknowledged to be of advantage to the society, and people in general, upon just and lasting measures, will always, when done, justify itself: and whenever the people shall choose their *representatives upon* just and undeniably *equal measures*, suitable to the original

frame of the government, it cannot be doubted to be the will and act of the society, whoever permitted or caused them so to do."—But as the very idea of universal suffrage seems now to be considered not only to be dangerous to, but absolutely destructive of monarchy, you certainly ought to be reminded that the book which I have been reading, and which my friend kindly gives me a note to remind you of, was written by its immortal author in defence of King William's title to the Crown; and when Dr. Sacheverel ventured to broach those doctrines of power and non-resistance, which, under the same establishments, have now become so unaccountably popular; he was impeached by the people's representatives for denying their rights, which had been asserted and established at the glorious era of the Revolution.

Gentlemen, if I were to go through all the matter which I have collected upon this subject, or which obtrudes itself upon my mind, from common reading, in a thousand directions, my strength would fail long before my duty was fulfilled: I had very little when I came into Court, and I have abundantly less already; I must, therefore, manage what remains to the best advantage. I proceed, therefore, to take a view of such parts of the evidence as appear to me to be the most material for the proper understanding of the case; I have had no opportunity of considering it, but in the interval which the indulgence of the Court, and your own, has afforded me, and that has been but for a very few hours this morning; but it occurred to me, that the best use I could make of the time given to me was (if possible) to disembroil this chaos; to throw out of view everything irrelevant, which only tended to bring chaos back again—to take what remained in order of time—to select certain stages and resting places—to review the effect of the transactions, as brought before us, and then to see how the written evidence is explained by the testimony of the witnesses who have been examined.

The origin of the Constitutional Society not having been laid in evidence before you, the first thing both in point of date, and as applying to show the objects of the different bodies, is the original address and resolution of the Corresponding Society on its first institution, and when it first began to correspond with the other, which had formerly ranked amongst its members so many illustrious persons; and before we look to the matter of this institution, let us recollect that the objects of it were given without reserve to the public, as containing the principles of the association; and I may begin with demanding whether the annals of this country, or indeed the universal history of mankind, afford an instance of a plot and conspiracy

voluntarily given up in its very infancy to Government, and the whole public, and of which, to avoid the very thing that has happened, the arraignment of conduct at a future period, and the imputation of secrecy where no secret was intended, a regular notice by letter was left with the Secretary of State, and a receipt taken at the public office, as a proof of the publicity of their proceeding, and the sense they entertained of their innocence. For the views and objects of the Society, we must look to the institution itself, which you are, indeed, desired to look at by the Crown; for their intentions are not considered as deceptions in this instance, but as plainly revealed by the very writing itself.

Gentlemen, there was a sort of silence in the Court—I do not say an affected one, for I mean no possible offence to any one, but there seemed to be an effect expected from beginning, not with the address itself, but with the very bold motto to it though in verse:

"Unblest by virtue, Government a league
Becomes, a circling junto of the great
To rob by law; Religion mild, a yoke
To tame the stooping soul, a trick of State
To mask their rapine, and to share the prey.
Without it, what are senates, but a face
Of consultation deep and reason free,
While the determin'd voice and heart are sold?
What, boasted freedom, but a sounding name?
And what election, but a market vile,
Of slaves self-barter'd?"

I almost fancy I heard them say to me, What think you of that to set out with?—Show me the parallel of that.—Gentlemen, I am sorry, for the credit of the age we live in, to answer, that it is difficult to find the parallel; because the age affords no such poet as he who wrote it:—these are the words of Thomson;—and it is under the banners of his proverbial benevolence, that these men are supposed to be engaging in plans of anarchy and murder; under the banners of that great and good man, whose figure you may still see in the venerable shades of Hagley, placed there by the virtuous, accomplished, and public-spirited Lyttelton:—the very poem too, written under the auspices of his Majesty's Royal Father, when heir-apparent to the Crown of Great Britain, nay, within the very walls of Carlton House, which afforded an asylum to matchless worth and genius in the person of this great poet: it was under the roof of A PRINCE OF WALES that the poem of LIBERTY was written;—and what better return could be given to a Prince for his protection, than to blazon, in immortal numbers, the only sure title to the Crown he was to wear—*the freedom*

of the people of Great Britain? And it is to be assumed, forsooth, in the year 1794, that the unfortunate prisoner before you was plotting treason and rebellion, because, with a taste and feeling beyond his humble station, his first proceeding was ushered into view, under the hallowed sanction of this admirable person, the friend and the defender of the British Constitution; whose countrymen are preparing at this moment (may my name descend amongst them to the latest posterity!) to do honor to his immortal memory. Pardon me, Gentlemen, for this desultory digression—I must express myself as the current of my mind will carry me.

If we look at the whole of the institution itself, it exactly corresponds with the plan of the Duke of Richmond, as expressed in the letters to Colonel Sharman, and to the High Sheriff of Sussex: this plan they propose to follow, in a public address to the nation, and all their resolutions are framed for its accomplishment; and I desire to know in what they have departed from either, and what they have done which has not been done before, without blame or censure, in the pursuance of the same object. I am not speaking of the libels they may have written, which the law is open to punish, but what part of their conduct has, as applicable to the subject in question, been unprecedented.—I have, at this moment in my eye, an honorable friend of mine, and a distinguished member of the House of Commons, who, in my own remembrance, I believe in 1780, sat publicly at Guildhall, with many others, some of them magistrates of the city, as a Convention of delegates, for the same objects; and, what is still more in point, just before the Convention began to meet at Edinburgh, whose proceedings have been so much relied on, there was a Convention regularly assembled, attended by the delegates from all the counties of Scotland, for the express and avowed purpose of altering the Constitution of Parliament; not by rebellion, but by the same means employed by the prisoner:—the Lord Chief Baron of Scotland sat in the chair, and was assisted by some of the first men in that country, and, amongst others, by an honorable person to whom I am nearly allied, who is at the very head of the Bar in Scotland, and most avowedly attached to the law and the Constitution. These gentlemen, whose good intentions never fell into suspicion, had presented a petition for the alteration of election laws, which the House of Commons had rejected, and on the spur of that very rejection they met in a Convention at Edinburgh, in 1793: and the style of their first meeting was, "A Convention of Delegates, chosen from the Counties of Scotland, *for altering and amending the Laws concerning Elections*"—not for considering how they might be best

amended—not for petitioning Parliament to amend them; but for altering and amending the election laws.—These meetings were regularly published, and I will prove, that their first resolution, as I have read it to you, was brought up to London, and delivered to the editor of the Morning Chronicle by Sir Thomas Dundas, lately created a peer of Great Britain, and paid for by him as a public advertisement. Now, suppose any man had imputed treason or sedition to these honorable persons, what would have been the consequence? They would have been considered as infamous libellers and traducers, and deservedly hooted out of civilized life:—why then are different constructions to be put upon similar transactions?—Why is everything to be held up as *bonâ fide* when the example is set, and *malâ fide* when it is followed?—Why have I not as good a claim to take credit for honest purpose in the poor man I am defending, against whom not a contumelious expression has been proved, as when we find the same expressions in the mouths of the Duke of Richmond or Mr. Burke?—I ask nothing more from this observation, than that a sober judgment may be pronounced from the quality of the acts which can be fairly established; each individual standing responsible only for his own conduct, instead of having our imaginations tainted with cant phrases, and a farrago of writings and speeches, for which the prisoner is not responsible, and for which the authors, if they be criminal, are liable to be brought to justice.

But it will be said, Gentlemen, that all the constitutional privileges of the people are conceded: that their existence was never denied or invaded; and that their right to petition and to meet for the expression of their complaints, founded or unfounded, was never called in question; these, it will be said, are the rights of subjects; but that the rights of man are what alarms them: every man is considered as a traitor who talks about the rights of man; but this bugbear stands upon the same perversion with its fellows.

The rights of man are the foundation of all government, and to secure them is the only reason of men's submitting to be governed;—it shall not be fastened upon the unfortunate prisoner at the bar, nor upon any other man, that because these natural rights were asserted in France, by the destruction of a government which oppressed and subverted them, a process happily effected here by slow and imperceptible improvements that therefore they can only be so asserted in England, where the government, through a gradation of improvement, is well calculated to protect them. We are, fortunately, not driven in this country to the terrible alternatives which were the unhappy lot of France, because we have had a happier destiny in the

forms of a free Constitution: this, indeed, is the express language of many of the papers before you, that have been complained of; particularly in one alluded to by the Attorney General, as having been written by a gentleman with whom I am particularly acquainted; and though in that spirited composition there are perhaps, some expressions proceeding from warmth which he may not desire me critically to justify, yet I will venture to affirm, from my own personal knowledge, that there is not a man in Court more honestly public-spirited and zealously devoted to the Constitution of King, Lords, and Commons, than the honorable gentleman I allude to (Felix Vaughan, Esq. barrister at law:) it is the phrase, therefore, and not the sentiment expressed by it, that can alone give justifiable offence; —it is, it seems, a *new* phrase commencing in revolutions, and never used before in discussing the rights of British subjects, and therefore can only be applied in the sense of those who framed it;—but this is so far from being the truth, that the very phrase sticks in my memory, from the memorable application of it to the rights of subjects, under this and every other establishment, by a gentleman whom you will not suspect of using it in any other sense. The rights of man were considered by Mr. Burke, at the time that the great uproar was made upon a supposed invasion of the East India Company's charter, to be the foundation of, and paramount to all, the laws and ordinances of a state:—the ministry, you may remember, were turned out for Mr. Fox's India Bill, which their opponents termed an attack upon the chartered rights of man, or, in other words, upon the abuses supported by a monopoly in trade.— Hear the sentiments of Mr. Burke, when the NATURAL and CHARTERED rights of men are brought into contest. Mr. Burke, in his speech in the House of Commons, expressed himself thus: "The first objection is, that the bill is an attack on the chartered rights of men.—As to this objection, I must observe that the phrase of 'the chartered rights *of men*,' is full of affectation; and very unusual in the discussion of privileges conferred by charters of the present description. But it is not difficult to discover what end that ambiguous mode of expression, so often reiterated, is meant to answer.

"The rights of *men*, that is to say, the *natural rights of mankind*, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. And if these natural rights are further affirmed and declared by express covenants, clearly defined and secured against chicane, power, and authority, by written intruments and positive engagements, they are in a still better condition; they then

partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures an object of such importance. Indeed, this formal recognition, by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding radical principles of government, and even of society itself."

The Duke of Richmond also, in his public letter to the High Sheriff of Sussex, rests the rights of the people of England upon the same horrible and damnable principles of the rights of man. Let Gentlemen, therefore, take care they do not pull down the very authority which they come here to support;—let them remember, that His Majesty's family was called to the throne upon the very principle, that the ancient Kings of this country had violated these sacred trusts;—let them recollect too in what the violation was charged to exist;—it was charged by the Bill of Rights to exist in cruel and infamous trials; in the packing of juries; and in disarming the people, whose arms are their unalienable refuge against oppression.—But did the people of England assemble to make this declaration?—No!—because it was unnecessary.—The sense of the people, against a corrupt and scandalous government, dissolved it, by almost the ordinary forms by which the old government itself was administered.—King William sent his writs to those who had sat in the former Parliament: but will any man, therefore, tell me, that that Parliament reorganized the government without the will of the people? And that it was not their consent which entailed on King William a particular inheritance, to be enjoyed under the dominion of the law? Gentlemen, it was the denial of these principles, asserted at the Revolution in England, that brought forward the author of the Rights of Man, and stirred up this controversy which has given such alarm to government:—but for this, the literary labors of Mr. Paine had closed.—He asserts it himself in his book, and every body knows it. It was not the French revolution, but Mr. Burke's Reflections upon it, followed up by another work on the same subject, *as it regarded things in England*, which brought forward Mr. Paine, and which rendered his works so much the object of attention in this country. Mr. Burke denied positively the very foundation upon which the Revolution of 1688 must stand for its support, viz. the right of the people to change their government; and he asserted, in the teeth of His Majesty's title to the Crown, that no such right in the people existed;—this is the true history of the Second Part of the Rights of Man.—The First Part had little more aspect to this country than to Japan;—it asserted the right of the people of France to act as they had acted, but there was little which

pounted to it as an example for England.—There had been a despotic authority in France which the people had thrown down, and Mr. Burke seemed to question their right to do so: —Mr. Paine maintained the contrary, in his answer; and having imbibed the principles of republican government, during the American revolution, he mixed with the controversy many coarse and harsh remarks upon monarchy as established, even in England, or in any possible form. But this was collateral to the great object of his work, which was to maintain the right of the people to choose their government;—this was the right which was questioned, and the assertion of it was most interesting to many who were most strenuously attached to the English government. For men may assert the right of every people to choose their government without seeking to destroy their own. This accounts for many expressions imputed to the unfortunate prisoners, which I have often uttered myself, and shall continue to utter every day of my life, and call upon the spies of Government to record them:—*I will say anywhere, without fear, nay, I will say here, where I stand, that an attempt to interfere, by despotic combination and violence, with any government which a people choose to give to themselves, whether it be good or evil, is an oppression and subversion of the natural and unalienable rights of man; and though the government of this country should countenance such a system, it would not only be still legal for me to express my detestation of it, as I have deliberately expressed it, but it would become my interest and my duty. For, if combinations of despotism can accomplish such a purpose, who shall tell me, what other nation shall not be the prey of their ambition?*—Upon the very principle of denying to a people the right of governing themselves, how are we to resist the French, should they attempt by violence to fasten their government upon us? Or, what inducement would there be for resistance to preserve laws, which are not, it seems, our own, but which are unalterably imposed upon us? The very argument strikes, as with a palsy, the arm and vigor of the nation. I hold dear the privileges I am contending for, not as privileges hostile to the Constitution, but as necessary for its preservation; and if the French were to intrude by force upon the government of our own free choice I should leave these papers, and return to a profession that, perhaps, I better understand.

The next evidence relied on, after the institution of the Corresponding Society, is a letter written to them from Norwich, dated the 11th of November 1792, with the answer, dated 26th of the same month:—it is asserted, that this correspondence shows, they aimed at nothing less than the total destruction of the monarchy, and that they, therefore, veil their intention

under covert and ambiguous language. I think, on the other hand, and I shall continue to think so, as long as I am capable of thought, that it was impossible for words to convey more clearly the explicit avowal of their original plan for a constitutional reform in the House of Commons. This letter from Norwich, after congratulating the Corresponding Society on its institution, asks several questions arising out of the proceedings of other societies in different parts of the kingdom, which they profess not thoroughly to understand.

The Sheffield people (they observe) seemed at first determined to support the Duke of Richmond's plan only, but that they had afterwards observed a disposition in them to a more moderate plan of reform proposed by the Friends of the People in London; whilst the Manchester people, by addressing Mr. Paine (whom the Norwich people had not addressed,) seemed to be intent on republican principles only; they therefore put a question, not at all of distrust, or suspicion, but *bonâ fide*, if ever there was good faith between men, whether the Corresponding Society meant to be satisfied with the plan of the Duke of Richmond? or, whether it was their private design to rip up monarchy by the roots, and place democracy in its stead? Now hear the answer, from whence it is inferred that this last is their intention: they begin their answer with recapitulating the demand of their correspondent, as regularly as a tradesman who has an order for goods, recapitulates the order, that there may be no ambiguity in the reference or application of the reply, and then they say, as to the objects they have in view they refer them to their addresses. "You will thereby see that they mean to disseminate political knowledge, and thereby engage the judicious part of the nation to demand the RECOVERY of their LOST rights in ANNUAL Parliaments; the members of these Parliaments owing their election to unbought suffrages." They then desire them to be careful to avoid all dispute, and say to them, Put monarchy, democracy, and even religion, quite aside; and "Let your endeavors go to increase the numbers of those who desire a full and equal representation of the people, and leave to a Parliament, so chosen, to reform all existing abuses; and if they don't answer, at the year's end, you may choose others in their stead." The Attorney General says, this is lamely expressed;—I, on the other hand, say, that it is not only not lamely expressed, but anxiously worded to put an end to dangerous speculations.—Leave all theories undiscussed; —do not perplex yourselves with abstract questions of government;—endeavor practically to get honest representatives,— and if they deceive you—then, what?—bring on a revolution? —No!—Choose others in their stead. They refer also to their

address, which lay before their correspondent, which address expresses itself thus: "Laying aside all claim to originality, we claim no other merit than that of reconsidering and verifying what has already been urged in our common cause by the Duke of Richmond and Mr. Pitt, and their then honest party."

When the language of the letter, which is branded as ambiguous, thus stares them in the face as an undeniable answer to the charge, they then have recourse to the old refuge of *malâ fides;* all this they say is but a cover for hidden treason. But I ask you, Gentlemen, in the name of God, and as fair and honest men, what reason upon earth is there to suppose, that the writers of this letter did not mean what they expressed? Are you to presume in a Court of Justice, and upon a trial for life, that men write with duplicity in their most confidential correspondence, even to those with whom they are confederated? Let it be recollected also, that if this correspondence was calculated for deception, the deception must have been understood and agreed upon by all parties concerned; for otherwise you have a conspiracy amongst persons who are at cross purposes with one another: consequently the conspiracy, if this be a branch of it, is a conspiracy of thousands and ten thousands, from one end of the kingdom to the other, who are all guilty, if any of the prisoners are guilty:—upwards of forty thousand persons, upon the lowest calculation, must alike be liable to the pains and penalties of the law, and hold their lives as tenants at will of the Ministers of the Crown.—In whatever aspect, therefore, this prosecution is regarded, new difficulties and new uncertainties and terrors surround it.

The next thing in order which we have to look at, is the Convention at Edinburgh. It appears that a letter had been written by Mr. Skirving, who was connected with reformers in Scotland proceeding avowedly upon the Duke of Richmond's plan, proposing that there should be a Convention from the societies assembled at Edinburgh:—now you will recollect, in the opening, that the Attorney General considered all the great original sin of this conspiracy and treason to have originated with the societies in London—that the country societies were only tools in their hands, and that the Edinburgh Convention was the commencement of their projects; and yet it plainly appears that this Convention originated from neither of the London societies, but had its beginning at Edinburgh, where, just before, a Convention had been sitting for the reform in Parliament, attended by the principal persons in Scotland; and surely, without adverting to the nationality so peculiar to the people of that country, it is not at all suspicious, that, since they were to hold a meeting for similar objects, they should make

use of the same style for their association; and that their deputies should be called delegates, when delegates had attended the other Convention from all the counties, and whom they were every day looking at in their streets, in the course of the very same year that Skirving wrote his letter on the subject. The views of the Corresponding Society, as they regarded this Convention, and consequently the views of the prisoner, must be collected from the written instructions to the delegates, unless they can be falsified by matter which is collateral. If I constitute an agent, I am bound by what he does, but always with this limitation, for what he does *within the scope of his agency*:—if I constitute an agent to buy horses for me, and he commits high treason, it will not, I hope, be argued that I am to be hanged.—If I constitute an agent for any business that can be stated, and he goes beyond his instructions, he must answer for himself beyond their limits; for beyond them he is not my representative.—The acts done, therefore, at the Scotch Convention, whatever may be their quality, are evidence to show, that, in point of fact, a certain number of people got together, and did anything you choose to call illegal; but, as far as it concerns me, if I am not present, you are limited by my instructions, and have not advanced a single step upon your journey to convict me; the instructions to Skirving have been read, and speak for themselves; they are strictly legal, and pursue the avowed object of the Society; and it will be for the Solicitor General to point out in his reply, any counter or secret instructions, or any collateral conduct, contradictory of the good faith with which they were written. The instructions are in these words—"The delegates are instructed, on the part of this Society, to assist in bringing forward and supporting any *constitutional* measure for procuring a real representation of the Commons of Great Britain." What do you say, Gentlemen, to this language?—how are men to express themselves who desire a constitutional reform? The object and the mode of effecting it were equally legal—this is most obvious from the conduct of the Parliament of Ireland, acting under directions from England; they passed the Convention Bill, and made it only a misdemeanor, knowing that, by the law as it stood, it was no misdemeanor at all. Whether this statement may meet with the approbation of others, I care not; I know the fact to be so, and I maintain that you cannot prove upon the Convention which met at Edinburgh, and which is charged to-day with high treason, one thousandth part of what, at last, worked up Government in Ireland to the pitch of voting it a misdemeanor.

Gentlemen, I am not vindicating anything that can promote disorder in the country, but I am maintaining that the worst

possible disorder that can fall upon a country is, when subjects are deprived of the sanction of clear and unambiguous laws.—If wrong is committed, let punishment follow according to the measure of that wrong:—if men are turbulent, let them be visited by the laws according to the measure of their turbulency:—if they write libels upon government, let them be punished according to the quality of those libels:—but you must not, and will not, because the stability of the monarchy is an important concern to the nation, confound the nature and distinctions of crimes, and pronounce that the life of the sovereign has been invaded, because the privileges of the people have been, perhaps, irregularly and hotly asserted;—you will not, to give security to government, repeal the most sacred laws instituted for our protection, and which are, indeed, the only consideration for our submitting at all to government. If the plain letter of the statute of Edward the Third applies to the conduct of the prisoners, let it in God's name be applied;—but let neither their conduct, nor the law that is to judge it, be tortured by construction; nor suffer the transaction, from whence you are to form a dispassionate conclusion of intention, to be magnified by scandalous epithets, nor overwhelmed in an undistinguishable mass of matter, in which you may be lost and bewildered, having missed the only parts which could have furnished a clue to a just or rational judgment.

Gentlemen, this religious regard for the liberty of the subject, against constructive treason, is well illustrated by Dr. Johnson, the great author of our English Dictionary, a man remarkable for his love of order, and for high principles of government, but who had the wisdom to know that the great end of government, in all its forms, is the security of liberty and life under the law. This man, of masculine mind, though disgusted at the disorder which Lord George Gordon created, felt a triumph in his acquittal, and exclaimed, as we learn from Mr. Boswell, "I hate Lord G. Gordon, but I am glad he was not convicted of this constructive treason; for, though I hate him, I love my country and myself."—This extraordinary man, no doubt, remembered with Lord Hale, that when the law is broken down, injustice knows no bounds, but runs as far as the wit and invention of accusers, or the detestation of persons accused will carry it.—You will pardon this almost perpetual recurrence to these considerations; but the present is a season when I have a right to call upon you by everything sacred in humanity and justice;—by every principle which ought to influence the heart of man, to consider the situation in which I stand before you.—I stand here for a poor, unknown, unprotected individual, charged with a design to subvert the government of the country, and the

dearest rights of its inhabitants;—a charge which has collected against him a force sufficient to crush to pieces any private man;—the whole weight of the Crown presses upon him; Parliament has been sitting upon ex-parte evidence for months together; and rank and property are associated, from one end of the kingdom to the other, to avert the supposed consequences of the treason. I am making no complaint of this; but surely it is an awful summons to impartial attention;—surely it excuses me for so often calling upon your integrity and firmness to do equal justice between the Crown, so supported, and an unhappy prisoner, so unprotected.

Gentlemen, I declare that I am utterly astonished, on looking at the clock, to find how long I have been speaking; and that, agitated and distressed as I am, I have yet strength enough remaining for the remainder of my duty;—at every peril of my health it shall be exerted: for although, if this cause should miscarry, I know I shall have justice done me for the honesty of my intentions; yet what is that to the public and posterity? —What is it to them, when, if upon this evidence there can stand a conviction for high treason, it is plain that no man can be said to have a life which is his own?—For how can he possibly know by what engines it may be snared, or from what unknown sources it may be attacked and overpowered?—Such a monstrous precedent would be as ruinous to the King as to his subjects. We are in a crisis of our affairs; which, putting justice out of the question, calls in sound policy for the greatest prudence and moderation. At a time when other nations are disposed to subvert *their* establishments, let it be our wisdom to make the subject feel the practical benefits of *our own:* let us seek to bring good out of evil:—the distracted inhabitants of the world will fly to us for sanctuary, driven out of their countries from the dreadful consequences of not attending to seasonable reforms in government;—victims to the folly of suffering corruptions to continue, till the whole fabric of society is dissolved and tumbles into ruin. Landing upon our shores, they will feel the blessings of security, and they will discover in what it consists: they will read this trial, and their hearts will palpitate at your decision:—they will say to one another, and their voices will reach to the ends of the earth; May the Constitution of England endure for ever!—the sacred and yet remaining sanctuary for the oppressed:—here, and here only the lot of man is cast in security:—what though authority, established for the ends of justice, may lift itself up against it; —what though the House of Commons itself should make an ex-parte declaration of guilt;—what though every species of art should be employed to entangle the opinions of the people,

which in other countries would be inevitable destruction;—yet in England, in enlightened England, all this will not pluck a hair from the head of innocence;—the Jury will still look steadfastly to the law, as the great polar star, to direct them in their course:—as prudent men they will set no example of disorder, nor pronounce a verdict of censure on authority, or of approbation or disapprobation beyond their judicial province;—but, on the other hand, they will make no political sacrifice, but deliver a plain, honest man, from the toils of injustice.—When your verdict is pronounced, this will be the judgment of the world;—and if any amongst ourselves are alienated in their affections to Government, nothing will be so likely to reclaim them:—they will say—Whatever we have lost of our contro' in Parliament, we have yet a sheet-anchor remaining to hold the vessel of the state amidst contending storms:—we have still, thank God, a sound administration of justice secured to us, in the independence of the Judges, in the rights of enlightened Juries, and in the integrity of the Bar;—ready at all times, and upon every possible occasion, whatever may be the consequences to themselves, to stand forward in defence of the meanest man in England, when brought for judgment before the laws of the country.

To return to this Scotch Convention.—Their papers were all seized by Government. What their proceedings were they best know: we can only see what parts they choose to show us; but, from what we have seen, does any man seriously believe, that this meeting at Edinburgh meant to assume and to maintain by force all the functions and authorities of the State? —Is the thing within the compass of human belief?—If a man were offered a dukedom, and twenty thousand pounds a year for trying to believe it, he might say he believed it, as what will not man say for gold and honors? but he never in fact could believe that this Edinburgh meeting was a Parliament for Great Britain:—how indeed could he, from the proceedings of a few peaceable, unarmed men, discussing, in a constitutional manner, the means of obtaining a reform in Parliament; and who, to maintain the club, or whatever you choose to call it, collected a little money from people who were well disposed to the cause; a few shillings one day, and perhaps as many pence another?—I think, as far as I could reckon it up, when the report, from this great committee of supply, was read to you, I counted that there had been raised, in the first session of this Parliament, fifteen pounds, from which indeed you must deduct two bad shillings, which are literally noticed in the account.—Is it to be endured, Gentlemen, that men should gravely say, that this body assumed to itself the offices of Parliament?—

that a few harmless people, who sat, as they profess, to obtain a full representation of the people, were themselves, even in their own imaginations, the complete representation which they sought for?—Why should they sit from day to day to consider how they might obtain what they had already got?—If their object was an universal representation of the whole people, how is it credible they could suppose that universal representation to exist in themselves—in the representatives of a few Societies, instituted to obtain it for the country at large?—If they were themselves the nation, why should the language of every resolution be that reason ought to be their grand engine for the accomplishment of their object, and should be directed to convince the nation to speak to Parliament in a voice that must be heard? The proposition, therefore, is too gross to cram down the throats of the English people, and this is the prisoner's security. Here again he feels the advantage of our free administration of justice: this proposition, on which so much depends, is not to be reasoned upon on parchment, to be delivered privately to magistrates for private judgment: no—he has the privilege of appealing loud, as he now appeals by me, to an enlightened assembly, full of eyes, and ears, and intelligence, where speaking to a Jury is, in a manner, speaking to a nation at large, and flying for sanctuary to its universal justice.

Gentlemen, the very work of Mr. Paine, under the banners of which this supposed rebellion was set on foot, refutes the charge it is brought forward to support: for Mr. Paine, in his preface, and throughout his whole book, reprobates the use of force against the most evil governments; the contrary was never imputed to him.—If his book had been written in pursuance of the design of force and rebellion, with which it is now sought to be connected, he would, like the prisoners, have been charged with an overt act of high treason; but such a proceeding was never thought of. Mr. Paine was indicted for a misdemeanor, and the misdemeanor was argued to consist not in the falsehood that a nation has no right to choose or alter its government, but in seditiously exciting the nation, without cause, to exercise that right. A learned Lord (Lord Chief Baron Macdonald,) now on this Bench, addressed the Jury as Attorney General upon this principle: his language was this:—The question is not, what the people have a right to do, for the people are, undoubtedly, the foundation and origin of all government; but the charge is, for seditiously calling upon the people, without cause or reason, to exercise a right which would be sedition, supposing the right to be in them: for though the people might have a right to do the thing suggested, and though they are not excited to the doing it by force

and rebellion, yet, as the suggestion goes to unsettle the State, the propagation of such doctrines is seditious. There is no other way, undoubtedly of describing that charge. I am not here entering into the application of it to Mr. Paine, whose Counsel I was, and who has been tried already. To say that the people have a right to change their government, is indeed a truism; everybody knows it, and they exercised the right, otherwise the King could not have had his establishment amongst us. If, therefore, I stir up individuals to oppose by force the general will seated in the government, it may be treason; but to induce changes in a government, by exposing to a whole nation its errors and imperfections, can have no bearing upon such an offence—the utmost which can be made of it is a misdemeanor, and that too depending wholly upon the judgment which the Jury may form of the intention of the writer.—The Courts, for a long time, indeed, assumed to themselves the province of deciding upon this intention, as a matter of law, conclusively inferring it from the act of publication: I say the Courts *assumed* it, though it was not the doctrine of Lord Mansfield, but handed down to him from the precedents of Judges before his time: but even in that case, though the publication was the crime, not, as in this case, the intention, and though the quality of the thing charged, when not rebutted by evidence for the defendant, had so long been considered to be a legal inference, yet the Legislature, to support the province of the Jury, and in tenderness for liberty, has lately altered the law upon this important subject. If, therefore, we were not assembled, as we are, to consider of the existence of high treason against the King's life, but only of a misdemeanor for seditiously disturbing his title and establishment, by the proceedings of a reform in Parliament, I should think the Crown, upon the very principle which, under the libel law, must now govern such a trial, quite as distant from its mark; because, in my opinion, there is no way by which His Majesty's title can more firmly be secured, or by which (above all, in our times) its permanency can be better established, than by promoting a more full and equal representation of the people, by peaceable means; and by what other means has it been sought, in this instance, to be promoted?

Gentlemen, when the members of this Convention were seized, did they attempt resistance?—Did they insist upon their privileges as subjects under the laws, or as a Parliament enacting laws for others?—If they had said or done anything to give color to such an idea, there needed no spies to convict them;—the Crown could have given ample indemnity for evidence from amongst themselves: the Societies consisted of

thousands and thousands of persons, some of whom, upon any calculation of human nature, might have been produced: the delegates, who attended the meetings, could not be supposed to have met, with a different intention from those who sent them; and, if the answer to that is, that the constituents are involved in the guilt of their representatives, we get back to the monstrous position *which I observed you before to shrink back from, with visible horror, when I stated it;* namely, the involving in the fate and consequence of this single trial every man, who corresponded with these Societies, or who, as a member of Societies in any part of the kingdom, consented to the meeting which was assembled, or which was in prospect;—but, I thank God, I have nothing to fear from such hydras, when I see before me such just and honorable men to hold the balance of justice.

Gentlemen, the dissolution of this Parliament speaks as strong a language as its conduct when sitting. How was it dissolved? When the magistrates entered, Mr. Skirving was in the chair, which he refused to leave:—he considered and asserted his conduct to be legal, and therefore informed the magistrate he must exercise his authority, that the dispersion might appear to be involuntary, and that the subject, disturbed in his rights, might be entitled to his remedy.—The magistrate on this took Mr. Skirving by the shoulder, who immediately obeyed; the chair was quitted in a moment, and this great Parliament broke up. What was the effect of all this proceeding at the time when whatever belonged to it must have been best understood? —Were any of the parties indicted for high treason?—Were they indicted even for a breach of the peace in holding the Convention?—None of these things.—The law of Scotland, arbitrary as it is, was to be disturbed to find a name for their offence, and the rules of trial to be violated to convict them:—they were denied their challenges to their Jurors, and other irregularities were introduced, so as to be the subject of complaint in the House of Commons.—Gentlemen, in what I am saying, I am not standing up to vindicate all that they published during these proceedings, more especially those which were written in consequence of the trials I have just alluded to; but allowance must be made for a state of heat and irritation:—they saw men whom they believed to be persecuted for what they believed to be innocent;—they saw them the victims of sentences which many would consider as equivalent to, if not worse than, judgment of treason: sentences which, at all events, had never existed before, and such as, I believe, never will again with impunity. But since I am on the subject of *intention*, I shall conduct myself with the same moderation which I have been prescribing; I will cast no aspersions, but shall con-

tent myself with lamenting that these judgments were productive of consequences, which rarely follow from authority discreetly exercised. How easy is it then to dispose of as much of the evidence as consumed half a day in the anathemas against the Scotch Judges! It appears that they came to various resolutions concerning them; some good, some bad, and all of them irregular. Amongst others they compare them to Jefferies, and wish that they, who imitate his example, may meet his fate.—What then?—Irreverend expressions against Judges are not acts of high treason!—If they had assembled round the Court of Justiciary, and hanged them in the execution of their offices, it would not have been treason within the statute.—I am no advocate for disrespect to Judges, and think that it is dangerous to the public order; but, putting aside the insult upon the Judges now in authority, the reprobation of Jefferies is no libel, but an awful and useful memento to wicked men. Lord Chief Justice Jefferies denied the privilege of English law to an innocent man. He refused it to Sir Thomas Armstrong, who in vain pleaded, in bar of his outlawry, that he was out of the realm when he was exacted—(an objection so clear, that it was lately taken for granted, in the case of Mr. Purefoy.) The daughter of this unfortunate person, a lady of honor and quality, came publicly into Court to supplicate for her father; and what were the effects of her supplications, and of the law in the mouth of the prisoner? "Sir Thomas Armstrong," said Jefferies, "you may amuse yourself as much as you please with the idea of your innocence, but you are to be hanged next Friday;"—and, upon the natural exclamation of a daughter at this horrible outrage against her parent, he said, "Take that woman out of Court;" which she answered by a prayer, that God Almighty's judgments might light upon him. Gentlemen, they did light upon him; and when, after his death, which speedily followed this transaction, the matter was brought before the House of Commons, under that glorious Revolution which is asserted throughout the proceedings before you, the judgment against Sir Thomas Armstrong was declared to be a murder under color of justice! Sir Robert Sawyer, the Attorney General, was expelled the House of Commons for his misdemeanor in refusing the writ of error,—and the executors of Jefferies were commanded to make compensation to the widow and the daughter of the deceased. These are great monuments of justice;—and, although I by no means approve of harsh expressions against authority, which tend to weaken the holdings of society, yet let us not go beyond the mark in our restraints, nor suppose that men are dangerously disaffected to the government, because they feel a sort of pride and exulta-

tion in events, which constitute the dignity and glory of their country.

Gentlemen, this resentment against the proceedings of the Courts in Scotland, was not confined to those who were the objects of them; it was not confined even to the friends of a reform in Parliament—a benevolent public, in both parts of the island, joined them in the complaint; and a gentleman of great moderation, and a most inveterate enemy to Parliamentary reform, as thinking it not an improvement of the government, but nevertheless a lover of his country and its insulted justice, made the convictions of the delegates the subject of a public inquiry;—I speak of my friend Mr. William Adam, who brought these judgments of the Scotch Judges before the House of Commons—arraigned them as contrary to law, and proposed to reverse them by the authority of Parliament. Let it not then be matter of wonder, that these poor men, who are the immediate victims of this injustice, and who saw their brethren expelled from their country by an unprecedented and questionable judgment, should feel like men on the subject, and express themselves as they felt.

Gentlemen, amidst the various distresses and embarrassments which attend my present situation, it is a great consolation that I have marked from the beginning, your vigilant attention and your capacity to understand; it is, therefore, with the utmost confidence that I ask you a few plain questions, arising out of the whole of these Scotch proceedings.—In the first place, then, do you believe it to be possible, that, if these men had really projected the Convention as a traitorous usurpation of the authorities of Parliament, they would have invited the Friends of the People, in Frith Street, to assist them, when they knew that this Society was determined not to seek the reform of the constitution, but by means that were constitutional, and from whom they could neither hope for support nor concealment of evil purposes?—I ask you next, if their objects had been traitorous, would they have given them, without disguise or color, to the public and to the government, in every common newspaper? And yet it is so far from being a charge against them, that they concealed their objects by hypocrisy or guarded conduct, that I have been driven to admit the justice of the complaint against them, for unnecessary inflammation and exaggeration.—I ask you farther, whether, if the proceedings, thus published and exaggerated, had appeared to Government, who knew everything belonging to them, in the light they represent them to you *to-day*, they could possibly have slept over them with such complete indifference and silence? For it is notorious, that after this Convention had been held at Edinburgh; after, in

short, everything had been said, written, and transacted, on which I am now commenting, and after Mr. Paine's book had been for above a year in universal circulation,—ay, up to the very day when Mr. Grey gave notice, in the House of Commons, of the intention of the Friends of the People for a reform in Parliament, there was not even a single indictment on the file for a misdemeanor; but, from that moment, when it was seen that the cause was not beat down or abandoned, the proclamation made its appearance, and all the proceedings that followed had their birth.—I ask you, lastly, Gentlemen, whether it be in human nature, that a few unprotected men, conscious in their own minds, that they had been engaged and detected in a detestable rebellion to cut off the King, to destroy the administration of justice, and to subvert the whole fabric of the government, should turn around upon their country, whose ruin they had projected, and whose most obvious justice attached on them, complaining, forsooth, that their delegates, taken by magistrates in the very act of high treason, had been harshly and illegally interrupted in a meritorious proceeding? The history of mankind never furnished an instance, nor ever will, of such extravagant, preposterous, and unnatural conduct! No, no, Gentlemen: all their hot blood was owing to their firm persuasion, dictated by conscious innocence, that the conduct of their delegates had been legal, and might be vindicated against the magistrates who obstructed them:—in that they might be mistaken;—I am not arguing that point at present: if they are hereafter indicted for a misdemeanor, and I am Counsel in that cause, I will then tell you what I think of it:—sufficient for the day is the good or evil of it,—it is sufficient, for the present one, that the legality or illegality of the business has no relation to the crime that is imputed to the prisoner.

The next matter that is alleged against the authors of the Scotch Convention, and the societies which supported it, is their having sent addresses of friendship to the Convention of France. These addresses are considered to be a decisive proof of republican combination, verging closely in themselves upon an overt act of treason.—Gentlemen, if the dates of these addresses are attended to, which come no lower down than November 1792, we have only to lament, that they are but the acts of private subjects, and that they were not sanctioned by the State itself.—The French nation, about that period, under their new Constitution, or under their new anarchy, call it which you will, were nevertheless most anxiously desirous of maintaining peace with this country—But the King was advised to withdraw his Ambassador from France, upon the approaching catastrophe of its most unfortunate Prince:—an event which, however

to be deplored, was no justifiable cause of offence to Great Britain. France desired nothing but the regeneration of her own government; and if she mistook the road to her prosperity, what was that to us?—But it was alledged against her in Parliament, that she had introduced spies amongst us, and held correspondence with disaffected persons, for the destruction of our constitution: this was the charge of our Minister, and it was therefore held to be just and necessary, for the safety of the country, to hold France at arm's-length, and to avoid the very contagion of contact with her at the risk of war.—But, Gentlemen, the charge against France was thought by many, to be supported by no better proofs than those against the prisoner.—In the public correspondence of the Ambassador from the French King, and upon his death, as a Minister from the Convention, with His Majesty's Secretary of State, documents which lie upon the table of the House of Commons, and which may be made evidence in the cause, the Executive Council repelled with indignation all the imputations, which to this very hour are held out as the vindications of quarrel. "If there be such persons in England," says Monsieur Chauvelin—"has not England laws to punish them?—France disavows them—such men are not Frenchmen."—The same correspondence conveys the most solemn assurances of friendship, down to the very end of the year 1792—a period subsequent to all the correspondence and addresses complained of.—Whether these assurances were faithful or otherwise,—whether it would have been prudent to have depended on them or otherwise,—whether the war was advisable or unadvisable,—are questions over which we have no jurisdiction;—I only desire to bring to your recollection, that a man may be a friend to the rights of humanity, and to the imprescriptible rights of social man, which is now a term of derision and contempt, that he may feel to the very soul for a nation beset by the sword of despots, and yet be a lover of his own country and its constitution.

Gentlemen, the same celebrated person, of whom I have had occasion to speak so frequently, is the best and brightest illustration of this truth. Mr. Burke, indeed, went a great deal further than requires to be pressed into the present argument; for he maintained the cause of justice and of truth, against all the perverted authority and rash violence of his country, and expressed the feelings of a Christian and a patriot in the very heat of the American war; boldly holding forth our victories as defeats, and our successes as calamities and disgraces. "It is not instantly," said Mr. Burke, "that I can be brought to rejoice, when I hear of the slaughter and captivity of long lists of those names which have been familiar to my ears from my

infancy, and to rejoice that they have fallen under the sword of strangers, whose barbarous appellations I scarcely know how to pronounce. The glory acquired at the *White Plains* by Colonel *Rville*, has no charms for me; and I fairly acknowledge, that I have not yet learned to delight in finding *Fort Knipliausen* in the heart of the British dominions." If this had been said or written by Mr. Yorke at Sheffield, or by any other member of these societies, heated with wine at the Globe Tavern, it would have been trumpeted forth as decisive evidence of a rebellious spirit, rejoicing in the downfall of his country; yet the great author whose writings I have borrowed from, approved himself to be the friend of this nation at that calamitous crisis, and had it pleased God to open the understandings of our rulers, his wisdom might have averted the storms that are now thickening around us. We must not, therefore, be too severe in our strictures upon the opinions and feelings of men as they regard such mighty public questions.—The interests of a nation may often be one thing, and the interests of its government another; but the interests of those who hold government for the hour is at all times different from either. At the time many of the papers before you were circulated on the subject of the war with France, many of the best and wisest men in this kingdom began to be driven by our situation to these melancholy reflections; and thousands of persons, the most firmly attached to the principles of our constitution, and who never were members of any of these societies, considered, and still consider, Great Britain as the aggressor against France; —they considered, and still consider, that she had a right to choose a government for herself, and that it was contrary to the first principles of justice, and, if possible, still more repugnant to the genius of our own free constitution, to combine with despots for her destruction: and who knows but that the external pressure upon France may have been the cause of that unheard-of state of society which we complain of?—who knows, but that, driven as she has been to exertions beyond the ordinary vigor of a nation, it has not been the parent of that unnatural and giant strength which threatens the authors of it with perdition? These are melancholy considerations, but they may reasonably, and at all events, be lawfully entertained. —We owe obedience to Government in our *actions*, but surely our *opinions* are free.

Gentlemen, pursuing the order of time, we are arrived at length at the proposition to hold *another Convention, which, with the supposed support of it by force, are the only overt acts of high treason charged upon this record.*—For, strange as it may appear, there is no charge whatever before you of any one of those

acts or writings, the evidence of which consumed so many days in reading, and which has already nearly consumed my strength in only passing them in review before you.—If every line and letter of all the writings I have been commenting upon were admitted to be traitorous machinations, and if the Convention in Scotland was an open rebellion, it is conceded to be foreign to the present purpose, unless as such criminality in them might show the views and objects of the persons engaged in them:—on that principle only the Court has over and over again decided the evidence of them to be admissible; and on the same principle I have illustrated them in their order as they happened, that I might lead the prisoner in your view up to the very point and moment when the treason is supposed to have burst forth into the overt act for which he is arraigned before you.

The transaction respecting this second Convention, which constitutes the principal, or more properly the only overt act in the Indictment, lies in the narrowest compass, and is clouded with no ambiguity. I admit freely every act which is imputed to the prisoner, and listen not so much with fear as with curiosity and wonder, to the treason sought to be connected with it.

You will recollect that the first motion towards the holding of a second Convention, originated in a letter to the prisoner from a country correspondent, in which the legality of the former was vindicated, and its dispersion lamented:—this letter was answered on the 27th of March 1794, and was read to you in the Crown's evidence in these words:

"*March* 27, 1794.

"CITIZEN,

"I am directed by the London Corresponding Society to transmit the following Resolutions to the Society for Constitutional Information, and to request the sentiments of that Society respecting the important measures which the present juncture of affairs seems to require.

"The London Corresponding Society conceives that the moment is arrived, when a full and explicit declaration is necessary from all the friends of freedom—whether the late *illegal and unheard-of prosecutions and sentences* shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardor proportioned to the magnitude of the object, and with a zeal as *distinguished* on *our* parts as the *treachery of others in the same glorious cause is notorious.* The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with *this and other societies to obtain a fair*

representation of the PEOPLE—*whether they concur with us in seeing the necessity of a speedy Convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labor, and which can only be effectually removed by a full and fair representation of the people of Great Britain.* The London Corresponding Society cannot but remind their friends that the present crisis demands all the prudence, unanimity, and vigor, that may or can be exerted by MEN and *Britons;* nor do they doubt but that manly firmness and consistency will finally, and they believe shortly, terminate in the full accomplishment of all their wishes.

"I am, Fellow-citizen,

"(In my humble measure,)

"A friend to the Rights of Man,

(Signed) "T. HARDY, Secretary."

They then resolved that there is no security for the continuance of any right but in equality of *laws;* not in equality of *property,* the ridiculous bugbear by which you are to be frightened into injustice;—on the contrary, throughout every part of the proceedings, and most emphatically in Mr. Yorke's speech, so much relied on, the beneficial subordinations of society, the security of property, and the prosperity of the landed and commercial interests, are held forth as the very objects to be attained by the reform in the representation which they sought for.

In examining this first moving towards a second Convention, the first thing to be considered is, what reason there is, from the letter I have just read to you, or from anything that appears to have led to it, to suppose that a *different sort* of Convention was projected from that which had been before assembled and dispersed. The letter says *another* British Convention; and it describes the same objects as the first—compare all the papers for the calling this second Convention with those for assembling the first, and you will find no difference, except that they mixed with them extraneous and libellous matter, arising obviously from the irritation produced by the sailing of the transports with their brethren condemned to exile. These papers have already been considered, and separated, as they ought to be, from the charge.

I will now lay before you all the remaining operations of this formidable conspiracy up to the prisoner's imprisonment in the Tower. Mr. Hardy having received the letter just adverted to, regarding a second Convention, the Corresponding Society wrote the letter of the 27th of March, and which was found in his hand-writing, and is published in the first Report, page 11

This letter, inclosing the Resolutions they had come to upon the subject, was considered by the Constitutional Society on the next day, the 28th of March, the ordinary day for their meeting, when they sent an answer to the Corresponding Society, informing them that they had received their communication, that they heartily concurred with them in the objects they had in view, and invited them to send a delegation of their members to confer with them on the subject.

Now, what were the objects they concurred in, and what was to be the subject of conference between the Societies by their Delegates? Look at the letter, which distinctly expresses its objects, and the means by which they sought to effect them:—had these poor men (too numerous to meet all together, and therefore renewing the cause of Parliamentary Reform by delegation from the Societies) any reason to suppose, that they were involving themselves in the pains of treason, and that they were compassing the King's death, when they were redeeming (as they thought) his authority from probable downfall and ruin? Had treason been imputed to the Delegates before?—Had the imagining the death of the King ever been suspected by anybody?—Or when they were prosecuted for misdemeanors, was the prosecution considered as an indulgence conferred upon men whose lives had been forfeited?—And is it to be endured, then, in this free land, made free too by the virtue of our forefathers, who placed the King upon his throne to maintain this freedom, that forty or fifty thousand people, in the different parts of the kingdom, assembling in their little Societies to spread useful knowledge, and to diffuse the principles of liberty, which the more widely they are spread, the surer is the condition of our free government, are in a moment, without warning, without any law or principle to warrant it, and without precedent or example, to be branded as traitors, and to be decimated as victims for punishment!—The Constitutional Society having answered the letter of the 27th of March, in the manner I stated to you:—Committees, from each of the two Societies, were appointed to confer together. The Constitutional Society appointed Mr. Joyce, Mr. Kidd, Mr. Wardle, and Mr. Holcroft, all indicted; and Mr. Sharpe, the celebrated engraver, not indicted, but examined as a witness by the Crown:—five were appointed by the Corresponding Society to meet these gentlemen, viz. Mr. Baxter, Mr. Moore, Mr. Thelwall, and Mr. Hodgson, all indicted, and Mr. Lovatt, against whom the bill was thrown out. These gentlemen met at the house of Mr. Thelwall on the 11th of April, and there published the resolutions already commented on, in conformity with the general objects of the two Societies, expressed

in the letter of the 27th of March, and agreed to continue to meet on Mondays and Thursdays for further conference on the subject. The first Monday was the 14th of April, of which we have heard so much, and no meeting was held on that day;—the first Thursday was the 17th of April, but there was no meeting;—the 21st of April was the second Monday, but there was still no meeting;—the 24th of April was the second Thursday, when the five of the Corresponding Society attended, but nobody coming to meet them from the other, nothing of course was transacted;—on Monday, the 28th of April, three weeks after their first appointment, this bloody and impatient band of conspirators, seeing that a Convention bill was in projection, and that Hessians were landing on our coasts, at last assembled themselves;—and now we come to the point of action.—Gentlemen, they met;—they shook hands with each other;—they talked over the news and the pleasures of the day;—they wished one another a good evening, and retired to their homes;—it is in vain to hide it, they certainly did all these things.—The same *alarming* scene was repeated on the three following days of meeting, and on Monday, May the 12th, would, but for the vigilance of Government, have probably again taken place:—but on that day Mr. Hardy was arrested, his papers seized, and the conspiracy which pervaded this devoted country was dragged into the face of day. To be serious, gentlemen, you have LITERALLY the whole of it before you, in the meetings I have just stated; in which you find ten gentlemen, appointed by two peaceable Societies, conversing upon the subject of a constitutional reform in Parliament, publishing the result of their deliberations, without any other arms than one supper-knife; which, when I come to the subject of arms, I will, in form, lay before you.—Yet for this, and for this alone, you are asked to devote the prisoner before you, and his unfortunate associates, to the pains and penalties of death, and not to death alone, but to the eternal stigma and infamy of having conceived the detestable and horrible design of dissolving the government of their country, and of striking at the life of their Sovereign, who had never given offence to them, nor to any of his subjects.

Gentlemen, as a conspiracy of this formidable extension, which had no less for its object than the sudden annihilation of all the existing authorities of the country, and of everything that supported them, could not be even gravely stated to have an existence, without contemplation of force to give it effect; it was absolutely necessary to impress upon the public mind, and to establish, by formal evidence, upon the present occasion, that such a force was actually in preparation.—This most important and indispensable part of the cause was attended

with insurmountable difficulties, not only from its being unfounded in fact, but because it had been expressly negatived by the whole conduct of government:—for although the motions of all these Societies had been watched for two years together, though their spies had regularly attended, and collected regular journals of their proceedings; yet when the first Report was finished, and the Habeas Corpus Act suspended upon the foundation of the facts contained in it, there was not to be found, from one end of it to the other, even the insinuation of arms; I believe that this circumstance made a great impression upon all the thinking, dispassionate part of the public, and that the materials of the first Report were thought to furnish but a slender argument to support such a total eclipse of liberty. No wonder, then, that the discovery of a pike, in the interval between the two Reports, should have been highly estimated. I mean no reflections upon Government, and only state the matter, as a man of great wit very publicly reported it;—he said that the discoverer, when he first beheld the long-looked-for pike, was transported beyond himself with enthusiasm and delight, and that he hung over the rusty instrument with all the raptures of a fond mother, who embraces her first-born infant, "*and thanks her God for all her travail past.*"

In consequence of this discovery, whoever might have the merit of it, and whatever the discoverer might have felt upon it, persons were sent by Government (and properly sent) into all corners of the kingdom to investigate the extent of the mischief; the fruit of this inquiry has been laid before you, and I pledge myself to sum up the evidence which you have had upon the subject, not by parts, or by general observations, but in the same manner as the Court itself must sum it up to you, when it lays the whole body of the proof with fidelity before you.—Notwithstanding all the declamations upon French anarchy, I think I may safely assert, that it has been distinctly proved, by the evidence, that the Sheffield people were for universal representation in a British House of Commons. This appears to have been the general sentiment, with the exception of one witness, whose testimony makes the truth and *bonâ fides* of the sentiments far more striking; the witness I allude to (George Widdison,) whose evidence I shall state in its place seems to be a plain, blunt, honest man, and by the by, which must never be forgotten of any of them, the Crown's witness.—I am not interested in the veracity of any of them, for (as I have frequently adverted to) the Crown must take them for better, for worse;—it must support each witness, and the whole body of its evidence throughout.—If you do not believe the whole of what is proved by a witness, what confidence can

you have in part of it, or what part can you select to confide in?—If you are deceived in part, who shall measure the boundaries of the deception?—This man says he was at first for universal suffrage; Mr. Yorke had persuaded him, from all the books, that it was the best; but that he afterwards saw reason to think otherwise, and was not for going the length of the Duke of Richmond: but that all the other Sheffield people were for the Duke's plan; a fact confirmed by the cross-examination of every one of the witnesses.—You have, therefore, positively and distinctly, upon the universal authority of the evidence of the Crown, the people of Sheffield, who are charged as at the head of a republican conspiracy, proved to be associated on the very principles which, at different times, have distinguished the most eminent persons in this kingdom; and the charge made upon them with regard to arms, is cleared up by the same universal testimony.

You recollect that, at a meeting held upon the Castle-hill, there were two parties in the country, and it is material to attend to what these two parties were.—In consequence of the King's proclamation, a great number of honorable, zealous persons, who had been led by a thousand artifices to believe that there was a just cause of alarm in the country, took very extraordinary steps for support of the magistracy.—The publicans were directed not to entertain persons who were friendly to a reform of Parliament; and alarms of change and revolution pervaded the country, which became greater and greater, as our ears were hourly assailed with the successive calamities of France.—Others saw things in an opposite light, and considered that these calamities were made the pretext for extinguishing British liberty;—heart-burnings arose between the two parties; and some, I am afraid a great many, wickedly, or ignorantly interposed in a quarrel which zeal had begun.—The Societies were disturbed in their meetings, and even the private dwellings of many of their members were illegally violated.—It appears by the very evidence for the Crown, by which the cause must stand or fall, that many of the friends of reform were daily insulted,—their houses threatened to be pulled down, and their peaceable meetings beset by pretended magistrates, without the process of the law.—These proceedings naturally suggested the propriety of having arms for self-defence, the first and most unquestionable privilege of man, in or out of society, and expressly provided for by the very letter of English law.—It was ingeniously put by the learned Counsel, in the examination of a witness, that it was complained of amongst them, that very little was sufficient to obtain a warrant from some magistrates, and that therefore it was as well

to be provided for those who might have warrants as for those who had none. Gentlemen, I am too much exhausted to pursue or argue such a difference, even if it existed upon the evidence, because if the Societies in question (however mistakenly) considered their meetings to be legal, and the warrants to disturb them to be beyond the authority of the magistrate to grant, they had a right, at the peril of the legal consequences, to stand upon their defence; and it is no transgression of the law, much less high treason against the King, to resist his officers when they pass the bounds of their authority. So much for the general evidence of arms; and the first and last time that even the name of the prisoner is connected with the subject, is by a letter he received from a person of the name of Davison. I am anxious that this part of the case should be distinctly understood, and I will, therefore, bring back this letter to your attention. The letter is as follows:

"FELLOW-CITIZEN,

"The barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive, against any attack they may command their newly armed minions to make upon us. A plan has been hit upon, and, if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots, great enough to make them formidable. The blades are made of steel, tempered and polished after an approved form. They may be fixed into any shafts (but *fir* ones are recommended) of the girt of the accompanying hoops at the top end, and about an inch more at the bottom.

"The blades and hoops (more than which cannot properly be sent to any great distance) will be charged one shilling. Money to be sent with the orders.

"As the institution is in its infancy, immediate encouragement is necessary.

"*Orders may be sent to the Secretary of the Sheffield Constitutional Society.* [*Struck out.*]

"RICHARD DAVISON.

"*Sheffield, April* 24, 1794."

Gentlemen, you must recollect (for, if it should escape you, it might make a great difference) that Davison directs the answer to this letter to be sent to Robert Moody at Sheffield, to prevent post-office suspicion; and that he also incloses in it a similar one, which Mr. Hardy was to forward to Norwich, in order that the Society at that place might provide pikes for themselves, in the same manner that Davison was recommend-

ing, through Hardy, to the people of London. Now what followed upon the prisoner's receiving this letter?—It is in evidence, by this very Moody, to whom the answer was to be sent, and who was examined as a witness by the Crown, *that he never received any answer to the letter*; and, although there was an universal seizure of papers, no such letter, nor any other, appeared to have been written; and, what is more, the letter to Norwich, from Davison, inclosed in his letter to Hardy, was never forwarded, but was found in his custody when he was arrested, three weeks afterwards, folded up in the other, and unopened, as he received it.—Good God! what is become of the humane sanctuary of English justice—where is the sense and meaning of the term *provably* in the statute of King Edward—if such evidence can be received against an English subject, on a trial for his life?—If a man writes a letter to me about pikes, or about anything else, can I help it?—And is it evidence (except to acquit me of suspicion) when it appears that nothing is done upon it?—Mr. Hardy never before corresponded with Davison—he never desired him to write to him.—How indeed could he desire him, when his very existence was unknown to him?—He never returned an answer;—he never forwarded the inclosed to Norwich; he never even communicated the letter itself to his own Society, although he was its Secretary, which showed he considered it as the unauthorized, officious correspondence of a private man;—he never acted upon it at all, nor appears to have regarded it as dangerous or important, since he neither destroyed nor concealed it. Gentlemen, I declare I hardly know in what language to express my astonishment, that the Crown can ask you to shed the blood of the man at the bar upon such foundations.—Yet this is the whole of the written evidence concerning arms: for the remainder of the plot rests, for its foundation, upon the parole evidence, the whole of which I shall pursue with precision, and not suffer a link of the chain to pass unexamined.

William Camage was the first witness: he swore that the Sheffield Societies were frequently insulted, and threatened to be dispersed; so that the people in general thought it necessary to defend themselves against illegal attacks;—that the justices having officiously intruded themselves into their peaceable and legal meetings, they thought they had a right to be armed; but they did not claim this right under the law of nature, or by theories of government, but as ENGLISH SUBJECTS, under the government of ENGLAND; for they say in their paper, which has been read by the Crown that would condemn them, that they were entitled by the BILL of RIGHTS to be armed. Gentlemen, they state their title truly.—The preamble of that

statute enumerates the offences of King James the Second; amongst the chief of which was, his causing his subjects to be disarmed, and then our ancestors claim this violated right as their indefeasible inheritance. Let us therefore be cautious how we rush to the conclusion, that men are plotting treason against the King, because they are asserting a right, the violation of which has been adjudged against a King to be treason against the people; and let us not suppose that English subjects are a banditti, for preparing to defend their legal liberties with pikes, because pikes may have been accidentally employed in another country to destroy both liberty and law. Camage says he was spoken to by this Davison about three dozen of pikes—What then? He is THE CROWN'S WITNESS, WHOM THEY OFFER TO YOU AS THE WITNESS OF TRUTH, and he started with horror at the idea of violence, and spoke with visible reverence for the King; saying, God forbid that he should touch him; but he, nevertheless, had a pike for himself. Indeed, the manliness with which he avowed it, gave an additional strength to his evidence.—"No doubt," says he, "I had a pike, but I would not have remained an hour a member of the Society, if I had heard a syllable, that it was in the contemplation of anybody to employ pikes or any other arms against the King or the Government. We meant to petition Parliament, through the means of the Convention of Edinburgh, thinking that the House of Commons would listen to this expression of the general sentiments of the people; for it had been thrown out, he said, in Parliament, that the people did not desire it themselves."

Mr. Broomhead, whose evidence I have already commented upon, a sedate, plain, sensible man, spoke also of his affection to the Government, and of the insults and threats which had been offered to the people of Sheffield: he says, "I heard of arms on the Castle-hill, but it is fit this should be distinctly explained: a wicked hand-bill, to provoke and terrify the multitude, had been thrown about the town in the night, which caused agitation in the minds of the people; and it was then spoken of, as being the right of every individual, to have arms for defence; but there was no idea ever started of *resisting*, much less of *attacking*, the Government. I never heard of such a thing. I fear God," said the witness, "and honor the King; and would not have consented to send a delegate to Edinburgh but for peaceable and legal purposes."

The next evidence, upon the subject of arms, is what is proved by Widdison, to which I beg your particular attention, because, if there be any reliance upon his testimony, it puts an end to every criminal imputation upon Davison, through whom,

in the strange manner already observed upon, Hardy could alone be criminated.

This man, Widdison, who was both a turner and hair-dresser, and who dressed Davison's hair, and was his most intimate acquaintance, gives you an account of their most confidential conversations upon the subject of the pikes, when it is impossible that they could be imposing upon one another; and he declares, upon his solemn oath, that Davison, without even the knowledge or authority of the Sheffield Society, thinking that the same insults might be offered to the London Societies, wrote the letter to Hardy, *of his own head, as the witness expressed it*, and that he, Widdison, made the pike-shafts, to the number of a dozen and a half. Davison, he said, was his customer; he told him that people began to think themselves in danger, and he therefore made the handles of the pikes for sale, to the number of a dozen and a half, and one likewise for himself, without conceiving that he offended against any law. "I love the King," said Widdison, "as much as any man, and all the people I associated with did the same: I would not have staid with them if they had not:—Mr. Yorke often told me privately, that he was for universal representation, and so were we all—*the Duke of Richmond's plan was our only object.*" This was the witness who was shown the Duke's letter, and spoke to it as being circulated, and as the very creed of the Societies.—This evidence shows, beyond all doubt, the genuine sentiments of these people, because it consists of their most confidential communications with one another; and the only answer, therefore, that can possibly be given to it is, that the witnesses, who deliver it, are imposing upon the Court. But this (as I have wearied you with reiterating) the Crown cannot say; for, in that case, their whole proof falls to the ground together, since it is only from the same witnesses that the very existence of these pikes and their handles comes before us; and, if you suspect their evidence *in part*, for the reasons already given, it must be *in toto* rejected. My friend is so good as to furnish me with this further observation; that Widdison said he had often heard those who called themselves Aristocrats say, that if an invasion of the country should take place, they would begin with destroying their enemies at home, that they might be unanimous in the defence of their country.

John Hill was next called: he was a cutler, and was employed by Davison to make the blades for the pikes; he saw the letter which was sent to Hardy, and knew that it was sent, lest there should be the same call for defence in London against illegal attacks upon the Societies; for that at Sheffield they were daily insulted, and that the opposite party came to his

own house, fired muskets under the door, and threatened to pull it down; he swears that they were, to a man, faithful to the King, and that the reform proposed was in the Commons House of Parliament.

John Edwards was called, further to connect the prisoner with this combination of force, but so far from establishing it, he swore, upon his cross-examination, that his only reason for going to Hardy's was, that he wanted a pike for his own defence, without connexion with Davison, or with Sheffield, and without concert or correspondence with anybody. He had heard, he said, of the violences at Sheffield, and of the pikes that had been made there for defence; that Hardy, on his application, showed him the letter which, as has appeared, he never showed to any other person.—This is the whole sum and substance of the evidence which applies to the charge of pikes, after the closest investigation, under the sanction, and by the aid of Parliament itself; evidence which, so far from establishing the fact, would have been a satisfactory answer to almost any testimony by which such a fact could have been supported: for in this unparalleled proceeding the prisoner's Counsel is driven by his duty to dwell upon the detail of the Crown's proofs: because the whole body of it is the completest answer to the Indictment which even a free choice itself could have selected.—It is further worthy of your attention, that, as far as the evidence proceeds from these plain, natural sources, which the Crown was driven to, for the necessary foundation of the proceedings before you, it has been simple,—uniform,—natural, and consistent; and that whenever a different complexion was to be given to it, it was only through the medium of spies and informers, and of men, independently of their infamous trade, of the most abandoned and profligate characters.

Before I advert to what has been sworn by this description of persons, I will give you a wholesome caution concerning them, and, having no eloquence of my own to enforce it, I will give it to you in the language of the same gentleman whose works are always seasonable, when moral or political lessons are to be rendered delightful. Look then at the picture of society, as Mr. Burke has drawn it, under the dominion of spies and informers: I say under their *dominion*, for a resort to spies may, on occasions, be justifiable, and their evidence, when confirmed, may deserve implicit credit; but I say under the *dominion* of spies and informers, because the case of the Crown must stand alone upon their evidence, and upon their evidence, not only unconfirmed, but in *direct contradiction to every witness, not an informer or a spy*, and in a case too where the truth

whatever it is, lies within the knowledge of forty or fifty thousand people. Mr. Burke says—I believe I can remember it without reference to the book.

"A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

"In this situation, men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse and in social habitudes.—The blood of wholesome kindred is infected.—The tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. —This species of universal subserviency, that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I vow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him."

Gentlemen, let me bring to your recollection the deportment of the first of this tribe, Mr. Alexander,—who could not in half an hour even tell where he had lived, or why he had left his master.—Does any man believe that he had forgotten these most recent transactions of his life? Certainly not—but his history would have undone his credit, and must therefore be concealed. He had lived with a linen-draper, whose address we could scarcely get from him, and they had parted because they had words:—What were the words? We were not to be told that.—He then went to a Mr. Killerby's, who agreed with him at twenty-five guineas a year.—Why did he not stay there?—He was obliged, it seems, to give up this lucrative agreement, because he was obliged to attend here as a witness. —Gentlemen, Mr. Killerby lives only in Holborn, and was he obliged to give up a permanent engagement with a tradesman in Holborn, because he was obliged to be absent at the Old Bailey for five minutes in one single day? I asked him if he had told Mr. White, the Solicitor for the Treasury, who would not have been so cruel as to deprive a man of his bread, by

keeping him upon attendance which might have been avoided by a particular notice.—The thing spoke for itself—he had never told Mr White: but had he ever told Mr. Killerby? For how else could he know that his place was inconsistent with his engagement upon this trial?—No, he had never told him! —How then did he collect that his place was inconsistent with his duty here?—This question never received any answer.—You saw how he dealt with it, and how he stood stammering, not daring to lift up his countenance in any direction,—confused,—disconcerted,—and confounded.

Driven from the accusation upon the subject of pikes, and even from the very color of accusation, and knowing that nothing was to be done without the proof of arms, we have got this miserable, solitary knife, held up to us as the engine which was to destroy the Constitution of this country; and Mr. Groves, an Old Bailey Solicitor, employed as a spy upon the occasion, has been selected to give probability to this monstrous absurdity, by his *respectable* evidence. I understand that this same gentleman has carried his system of spying to such a pitch as to practise it since this unfortunate man has been standing a prisoner before you, proffering himself, as a friend, to the committee preparing his defence, that he might discover to the Crown the materials by which he meant to defend his life. I state this only from report, and I hope in God I am mistaken; for human nature starts back appalled from such atrocity, and shrinks and trembles at the very statement of it. But as to the perjury of this miscreant, it will appear palpable beyond all question, and he shall answer for it in due season. He tells you he attended at Chalk Farm; and that there, forsooth, amongst about seven or eight thousand people, he saw two or three persons with knives:—he might, I should think, have seen many more, as hardly any man goes without a knife of some sort in his pocket. He asked, however, it seems, where they got these knives, and was directed to Green, a hair-dresser, who deals besides in cutlery; and accordingly this notable Mr. Groves went (as he told us) to Green's, and asked to purchase a knife; when Green in answer to him said, "Speak low, for my wife is a damn'd Aristocrat."—This answer was sworn to by the wretch, to give you the idea that Green, who had the knives to sell, was conscious that he kept them for an illegal and wicked purpose, and that they were not to be sold in public. The door, he says, being ajar, the man desired him to speak low, from whence he would have you understand that it was because this aristocratic wife was within hearing.—This, Gentlemen, is the testimony of Groves, and Green himself is called as the next witness; and called by

whom? Not by me—I know nothing of him: he is the Crown's own witness.—He is called to confirm Grove's evidence; but *not being a spy*, he declared solemnly upon his oath, and I can confirm his evidence by several respectable people, that the knives in question lie constantly, and lay then in his open shop-window, in what is called the show-glass, where cutlers, like other tradesmen, expose their ware to public view; and that the knives differ in nothing from others publicly sold in the Strand, and every other street in London;—that he bespoke them from a rider, who came round for orders in the usual way; that he sold only fourteen in all, and that they were made up in little packets, one of which Mr. Hardy had, who was to choose one for himself, but four more were found in his possession, because he was arrested before Green had an opportunity of sending for them.

Gentlemen, I think the pikes and knives are now completely disposed of; but something was said also about guns; let us, therefore, see what that amounts to.—It appears that Mr. Hardy was applied to by Samuel Williams, a gun-engraver, who was not even a member of any Society, and who asked him if he knew anybody who wanted a gun—Hardy said he did not; and undoubtedly upon the Crown's own showing, it must be taken for granted that if at that time he had been acquainted with any plan of arming, he would have given a different answer, and would have jumped at the offer:—about a fortnight afterwards, however (Hardy in the interval having become acquainted with Franklow,) Williams called to buy a pair of shoes, and then Hardy recollecting his former application, referred him to Franklow, who had in the most public manner raised the forty men, who were called the Loyal Lambeth Association:—so that, in order to give this transaction any bearing upon the charge, it became necessary to consider Franklow's Association as an armed conspiracy against the Government;—though the forty people who composed it were collected by public advertisement;—though they were enrolled under public articles;—and though Franklow himself, as appears from the evidence, attended publicly at the Globe Tavern in his uniform, whilst the cartouch-boxes and the other accoutrements of these secret conspirators lay openly upon his shop-board, exposed to the open view of all his customers and neighbors. This story, therefore, is not less contemptible than that which you must have all heard concerning Mr. Walker, whom I went to defend at Lancaster, where that respectable gentleman was brought to trial upon such a trumped-up charge, supported by the solitary evidence of one Dunn, a most infamous witness; but what was the end of that prosecution?—I recollect

it to the honor of my friend, Mr. Law, who conducted it for the Crown, who, knowing that there were persons whose passions were agitated upon these subjects at that moment, and that many persons had enrolled themselves in societies to resist conspiracies against the government, behaved in a most manful and honorable manner, in a manner, indeed, which the public ought to know, and which I hope it never will forget: he would not even put me upon my challenges to such persons, but withdrew them from the pannel: and when he saw the complexion of the affair, from the contradiction of the infamous witness whose testimony supported it, he honorably gave up the cause.

Gentlemen, the evidence of Lynam does not require the same contradiction which fell upon Mr. Groves, because it destroys itself by its own intrinsic inconsistency;—I could not, indeed, if it were to save my life, undertake to state it to you.—It lasted, I think, about six or seven hours, but I have marked under different parts of it, passages so grossly contradictory, matter so impossible, so inconsistent with any course of conduct, that it will be sufficient to bring these parts to your view, to destroy all the rest. But let us first examine in what manner this matter, such as it is, was recorded.—He professed to speak from notes, yet I observed him frequently looking up to the ceiling whilst he was speaking;—when I said to him, are you now speaking from a note? Have you got any note of wha you are now saying? he answered; Oh no, this is from recollection.—Good God Almighty! recollection mixing itself with notes in a case of high treason!—He did not even take down the words—nay, to do the man justice, he did not even affect to have taken the words, but only the substance, as he himself expressed it—O EXCELLENT EVIDENCE!—THE SUBSTANCE OF WORDS TAKEN DOWN BY A SPY, AND SUPPLIED, WHEN DEFECTIVE, BY HIS MEMORY. But I must not call him a spy; for it seems he took them *bonâ fide* as a Delegate; and yet *bonâ fide* as an informer;—what a happy combination of fidelity! faithful to serve, and faithful to betray!—correct to record for the business of the Society, and correct to dissolve and to punish it!—What after all do the notes amount to? I will advert to the parts I alluded to—they were, it seems, to go to Frith Street, to sign the Declaration of the Friends of the Liberty of the Press, which lay there already signed by between twenty and thirty Members of the House of Commons, and many other respectable and opulent men, and then they were to begin civil confusion, and the King's head, and Mr. Pitt's, were to be placed on Temple Bar. Immediately after which we find them resolving unanimously to thank Mr. Wharton for his speech to support the glorious revolution of 1688, which supports the

very throne that was to be destroyed! which same speech they were to circulate in thousands for the use of the Societies throughout the kingdom. Such incoherent, impossible matter proceeding from such a source, is unworthy of all farther concern.

Thus driven out of everything which relates to arms, and from every other matter which can possibly attach upon life, they have recourse to an expedient, which, I declare, fills my mind with horror and terror: it is this—The Corresponding Society had (you recollect,) two years before, sent Delegates to Scotland, with specific instructions, peaceably to pursue a Parliamentary Reform;—when the Convention which they were sent to was dispersed, they sent no others—for they were arrested when only considering of the propriety of another Convention. It happened that Mr. Hardy was the Secretary during the period of these Scotch proceedings, and the letters consequently written by him, during that period, were all official letters from a large body, circulated by him in point of form. When the proposition took place calling for a second Convention, Mr. Hardy continued to be Secretary, and, in that character, signed the circular letter read in the course of the evidence, which appears to have found its way, in the course of circulation, into SCOTLAND. This single circumstance has been admitted as the foundation of receiving in evidence against the prisoner, a long transaction imputed to one Watt, at Edinburgh, whose very existence was unknown to Hardy.—This Watt had been employed by Government as a spy, but at last caught a Tartar in his spyship; for, endeavoring to urge innocent men to a project, which never entered into their imaginations, he was obliged to show himself ready to do what he recommended to others; and the tables being turned upon him, he was hanged by his employers. This man Watt read from a paper designs to be accomplished, but which he never intended to attempt, and the success of which he knew to be visionary.—To suppose that Great Britain could have been destroyed by such a rebel as Watt, would be, as Dr. Johnson says, to expect that a great city might be drowned by the overflowing of its kennels. But whatever might be the peril of Watt's conspiracy, what had Hardy to do with it? The people with Watt were five or six persons wholly unknown to Hardy, and not members of any Society of which Mr. Hardy was a member; I vow to God, therefore, that I cannot express what I feel, when I am obliged to state the evidence by which he is sought to be affected.—A letter, viz. the circular letter signed by Hardy for calling another Convention is shown to George Ross, who says he received it from one Stock, who

belonged to a Society which met in Nicholson Street in Edinburgh, and that he sent it to Perth, Strathaven, and Paisley, and other places in Scotland; and the single unconnected evidence of this public letter, finding its way into Scotland, is made the foundation of letting in the whole evidence which hanged Watt, against Hardy, who never knew him. Government hanged its own spy in Scotland upon that evidence, and it may be sufficient evidence for that purpose: I will not argue the case of a dead man, and above all, of such a man; but I will say, that too much money was spent upon this performance, as I think it cost Government about fifty thousand pounds. M'Ewen says, that Watt read from a paper to a committee of six or seven people, of which he, the witness, was a member, that gentlemen, residing in the country, were not to leave their habitations, under pain of death; that an attack was to be made in the manner you remember, and that the Lord Justice Clerk, and the Judges, were to be cut off by these men in buckram; and then an address was to be sent to the King, desiring him to dismiss his Ministers and to put an end to the war, or that he might expect bad consequences. WHAT IS ALL THIS TO MR. HARDY?—How is it possible to affect HIM with any part of this? Hear the sequel, and then judge for yourselves.—Mr. Watt said (*i. e.* the man who is hanged said,) after reading the paper, that he, Watt, wished to correspond with Mr. Hardy in a safe manner;—so that because a ruffian and a scoundrel, whom I never saw or heard of, chooses, at the distance of four hundred miles, to say, that he *wishes to correspond with me,* I am to be involved in the guilt of his actions! It is not proved or insinuated that Mr. Hardy ever saw, or heard of, or knew, that such men were in being as Watt or Downie:—nor is it proved, or asserted, that any letter was, in fact, written by either of them to Hardy, or to any other person. No such letter has been found in his possession, nor a trace of any connexion between them and any member of any English Society:—the truth I believe is, that nothing was intended by Watt but to entrap others to obtain a reward for himself, *and he has been amply and justly rewarded.* Gentlemen, I desire to be understood to be making no attacks upon Government,—I have wished, throughout the whole cause, that good intentions may be imputed to it, but I really confess, that it requires some ingenuity for Government to account for the original existence of all this history, and its subsequent application to the present trial. They went down to Scotland, after the arrest of the prisoners, in order, I suppose, that we might be taught the law of high treason by the Lord Justice Clerk of Edinburgh, and that there should be a sort of rehearsal to teach the people of

England to administer English laws; for, after all this expense and preparation, no man was put upon his trial, nor even arraigned under the special commission in Scotland, but these two men; one for reading this paper, and the other for not dissenting from it when it was read; and with regard to this last unfortunate person, the Crown thought it indecent, as it would indeed have been indecent and scandalous, to execute the law upon him; as a gentleman upon his Jury said, he would die rather than convict Downie without a recommendation of mercy, and he was only brought over to join in the verdict, under the idea that he would not be executed, and, accordingly, he has not suffered execution. If Downie, then, was an object of mercy, or rather of justice, though he was in the very room with Watt, and heard distinctly the proposition, upon what possible ground can they demand the life of the prisoner at the bar, on account of a connexion with the very same individual, *though he never corresponded with him, nor saw him, nor heard of him,—to whose very being he was an utter stranger?*

Gentlemen, it is impossible for me to know what impression this observation makes upon you, or upon the Court; but I declare I am deeply impressed with the application of it. How is a man to defend himself against such implications of guilt? —Which of us all would be safe, standing at the bar of God or man, if he were even to answer for all his *own* expressions, without taking upon him the crimes or rashness of *others?* This poor man has, indeed, none of his own to answer for: yet how can he stand safely in judgment before you, if, in a season of alarm and agitation, with the whole pressure of government upon him, your minds are to be distracted with criminating materials brought from so many quarters, and of an extent which mocks all power of discrimination?—I am conscious that I have not adverted to the thousandth part of them;—yet I am sinking under fatigue and weakness—I am at this moment scarcely able to stand up whilst I am speaking to you, deprived as I have been, for nights together, of everything that deserves the name of rest, repose, or comfort. I therefore hasten, whilst yet I may be able, to remind you once again of the great principle into which all I have been saying resolves itself.

Gentlemen, my whole argument then amounts to no more than this, that before the crime of compassing THE KING'S DEATH can be found *by you, the Jury,* whose province it is to judge of its existence, it must be *believed by you* to have existed in point of fact.—Before you can adjudge A FACT, you *must believe it*—not suspect it, or imagine it, or fancy it,—BUT BELIEVE IT—and it is impossible to impress the human mind with such

a reasonable and certain belief, as is necessary to be impressed before a Christian man can adjudge his neighbor to the smallest penalty, much less to the pains of death, without having such evidence as a reasonable mind will accept of as the infallible test of truth. And what is that evidence?—Neither more nor less than that which the Constitution has established in the Courts for the general administration of justice; namely, that the evidence convinces the Jury, beyond all reasonable doubt, that the criminal *intention*, constituting the crime, existed in the mind of the man upon trial, and was the main-spring of his conduct. The rules of evidence, as they are settled by law, and adopted in its general administration, are not to be overruled or tampered with. They are founded in the charities of religion—in the philosophy of nature—in the truths of history, and in the experience of common life; and whoever ventures rashly to depart from them, let him remember that it will be meted to him in the same measure, and that both God and man will judge him accordingly. These are arguments addressed to your reasons and consciences, not to be shaken in upright minds by any precedent, for no precedents can sanctify injustice;—if they could, every human right would long ago have been extinct upon the earth. If the State Trials in bad times are to be searched for precedents, what murders may you not commit;—what law of humanity may you not trample upon;—what rule of justice may you not violate;—and what maxim of wise policy may you not abrogate and confound?—If precedents in bad times are to be implicitly followed, why should we have heard any evidence at all?—You might have convicted without any evidence, for many have been so convicted, and in this manner murdered, even by acts of Parliament. If precedents in bad times are to be followed, why should the Lords and Commons have investigated these charges, and the Crown have put them into this course of judicial trial?—since, without such a trial, and even after an acquittal upon one,—they might have attainted all the prisoners by act of Parliament;—they did so in the case of Lord Strafford.—There are precedents, therefore, for all such things;—but such precedents as could not for a moment survive the times of madness and distraction, which gave them birth, but which, as soon as the spurs of the occasions were blunted, were repealed, and execrated even by Parliaments which (little as I may think of the present) ought not to be compared with it: Parliaments sitting in the darkness of former times,—in the night of freedom,—before the principles of government were developed, and before the Constitution became fixed. The last of these precedents, and all the proceedings upon it, were ordered to be taken

off the file and burnt, to the intent that the same might no longer be visible in after ages; an order dictated, no doubt, by a pious tenderness for national honor, and meant as a charitable covering for the crimes of our fathers.—But it was a sin against posterity; it was a treason against society,—for, instead of commanding them to be burnt, they should rather have directed them to be blazoned in large letters upon the walls of our Courts of Justice, that, like the characters deciphered by the prophet of God, to the eastern tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice.

In times, when the whole habitable earth is in a state of change and fluctuation,—when deserts are starting up into civilized empires around you,—and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular governments, enlist themselves, like the citizens of an enlightened world, into whatever communities where their civil liberties may be best protected; it never can be for the advantage of this country to prove, that the strict, unextended letter of her laws, is no security to its inhabitants.—On the contrary, when so dangerous a lure is everywhere holding out to emigration, it will be found to be the wisest policy of Great Britain to set up her happy Constitution,—the strict letter of her guardian laws, and the proud condition of equal freedom, which her highest and her lowest subjects ought equally to enjoy;—it will be her wisest policy to set up these first of human blessings against those charms of change and novelty which the varying condition of the world is hourly displaying, and which may deeply affect the population and prosperity of our country.—In times, when the subordination to authority is said to be everywhere but too little felt, it will be found to be the wisest policy of Great Britain, to instil into the governed an almost superstitious reverence for the strict security of the laws; which, from their equality of principle, beget no jealousies or discontent;—which, from their equal administration, can seldom work injustice; and which, from the reverence growing out of their mildness and antiquity, acquire a stability in the habits and affections of men, far beyond the force of civil obligation:—whereas severe penalties, and arbitrary constructions of laws intended for security, lay the foundations of alienation from every human government, and have been the cause of all the calamities that have come, and are coming upon the earth.

Gentlemen, what we read of in books makes but a faint impression upon us, compared to what we see passing under our eyes in the living world. I remember the people of another

country, in like manner, contending for a renovation of their Constitution, sometimes illegally and turbulently, but still devoted to an honest end;—I myself saw the people of Brabant so contending for the ancient Constitution of the good Duke of Burgundy;—how was this people dealt by?—All, who were only contending for their own rights and privileges, were supposed to be of course disaffected to the Emperor:—they were handed over to Courts constituted for the emergency, as this is, and the Emperor marched his army through the country till all was peace;—but such peace as there is in Vesuvius, or Ætna, the very moment before they vomit forth their lava, and roll their conflagrations over the devoted habitations of mankind:—when the French approached, the fatal effects were suddenly seen of a government of constraint and terror;—the well-affected were dispirited, and the disaffected inflamed into fury.—At that moment the Archduchess fled from Brussels, and the Duke of Saxe-Teschen was sent express to offer the *joyeuse entrée* so long petitioned for in vain: but the season of concession was past;—the storm blew from every quarter,—and the throne of Brabant departed for ever from the House of Burgundy.—Gentlemen, I venture to affirm, that, with other councils, this fatal prelude to the last revolution in that country, might have been averted:—if the Emperor had been advised to make the concessions of justice and affection to his people, they would have risen in a mass to maintain their prince's authority, interwoven with their own liberties; and the French, the giants of modern times, would, like the giants of antiquity, have been trampled in the mire of their own ambition. In the same manner a far more splendid and important Crown passed away from His Majesty's illustrious brows:—THE IMPERIAL CROWN OF AMERICA.—The people of that country too, for a long season, contended as subjects, and often with irregularity and turbulence, for what they felt to be their rights: and, O Gentlemen! that the inspiring and immortal eloquence of that man, whose name I have so often mentioned, had then been heard with effect!—what was his language to this country, when she sought to lay burdens on America,—not to support the dignity of the Crown, or for the increase of national revenue, but to raise a fund for the purpose of corruption;—a fund for maintaining those tribes of hireling skipjacks, which Mr. Tooke so well contrasted with the hereditary nobility of England!—Though America would not bear this imposition, she would have borne any useful or constitutional burden to support the parent state.—"For that service, for all service," said Mr. Burke; "whether of revenue, trade, or empire, my trust is in her interest in the British Constitution. My hold of

the colonies is in the close affection which grows from common names, from kindred blood, from similar privileges, and equal protection. These are ties which, though light as air, are as strong as links of iron. Let the colonies always keep the idea of their civil rights associated with your governments, they will cling and grapple to you, and no force under heaven will be of power to tear them from their allegiance. But let it be once understood, that your government may be one thing, and their privileges another; that these two things may exist without any mutual relation; the cement is gone; the cohesion is loosened; and everything hastens to decay and dissolution. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship freedom, they will turn their faces toward you. The more they multiply, the more friends you will have; the more ardently they love liberty, the more perfect will be their obedience. Slavery they can have anywhere. It is a weed that grows in every soil. They may have it from Spain, they may have it from Prussia. But until you become lost to all feeling of your true interest and your natural dignity, freedom they can have from none but you. This is the commodity of price, of which you have the monopoly. This is the true act of navigation, which binds to you the commerce of the colonies, and through them secures to you the wealth of the world. Is it not the same virtue which does everything for us here in England? Do you imagine, then, that it is the land-tax act which raises your revenue? that it is the annual vote in the Committee of Supply, which gives you your army? Or that it is the Mutiny Bill which inspires it with bravery and discipline? No! surely no! It is the love of the people: it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber."

Gentlemen, to conclude—My fervent wish is that we may not conjure up a spirit to destroy ourselves, nor set the example here of what in another country we deplore.—Let us cherish the old and venerable laws of our forefathers.—Let our judicial administration be strict and pure; and let the Jury of the land preserve the life of a fellow-subject, who only asks it from them upon the same terms under which they hold their own lives, and all that is dear to them and their posterity for ever Let me repeat the wish with which I began my address to you

and which proceeds from the very bottom of my heart;—may it please God, who is the Author of all mercies to mankind, whose providence, I am persuaded, guides and superintends the transactions of the world, and whose guardian spirit has for ever hovered over this prosperous island, to direct and fortify your judgments. I am aware I have not acquitted myself to the unfortunate man, who has put his trust in me, in the manner I could have wished;—yet I am unable to proceed any further; exhausted in spirit and in strength, but confident in the expectation of justice.

MR. ERSKINE'S SPEECH,

IN THE HOUSE OF COMMONS, MAY 26, 1797, IN FAVOR OF A REFORM IN PARLIAMENT.

I rise to second the motion of my honorable friend; and though I might content myself with saying, that I do so, resting upon the reasons and principles which he has so ably detailed, and which have always been mine also; yet I cannot, at this awful and momentous crisis, with propriety pursue that course. The principles, upon which we maintain the cause of the people of England, and indeed the universal liberties of mankind, have been so frequently and scandalously misrepresented, that I owe it to my country, and to myself, to state distinctly the motives of my conduct. I will do it with firmness, and with a most fixed determination to follow up by my actions all that I shall profess. I desire, with my honorable friend, to remove from the consideration of this momentous question all vain speculations on theories of government. I recommend a reform in Parliament, simply upon the footing of the practical advantages which it is obviously calculated to produce, and its consistency with the genuine principles and practice of the British constitution. There are two questions for consideration, arising out of the motion which has been made: First, whether the house of commons in its present frame and constitution fulfils the ends of its office in the British government, so as to render any change in it inexpedient? By the house of commons I desire not to be supposed to speak of this, or of those long past, or that yet may be elected, but of any possible house of commons in its present frame and constitution. Secondly, whether, supposing a reform of Parliament to be expedient, the present moment is seasonable for entertaining it? This last point is, indeed, a matter of the highest importance.

The present is no common period, and pregnant with no common events. We are in a crisis of unexampled difficulty and danger; and we stand answerable to God and man for that singleness of conduct which alone can avert our ruin. I observe that this state of things is not only admitted, but loudly returned to me as a censure on the rashness of the proposition before the house: but I undertake to demonstrate, that, if you would avert the calamities which threaten to overwhelm you, you

have not a moment to lose in adopting the motion which has been made. Indeed, I am convinced this is the last moment that may be ever given you for deliberation. If you do not come to vote this very night, which sanctions at least the principles of a reform in Parliament, you will find that you have neglected an opportunity never to be recalled. You will find it come back to you in a shape which may disrobe you of the power of deliberation, when concession will have lost its charm, and authority its dignity, and when the voice of wisdom and deliberation can be no longer heard. This, however, is out of its place: I shall arrive at it in its order. For the present, I will pursue my course.

I will offer what I have to say on each of these points in a very few words. In examining whether the present constitution of the House fulfils its offices in the government, it is necessary to reflect, what the office and character of the house of commons really is, in genuine theory, and in original practice. Its office is to balance the other branches of the government, to watch with jealousy over the executive power, which for the ends of good and active government ought to be strong and powerful; and to protect the popular prvileges against the encroachments of aristocratic influence and authority. Unless the house of commons be sufficient to maintain this character in its full vigor and purity, the popular branch of the constitution is cut off to every practical effect. The genuine principle of the government is lost, and the people have no more political existence than slaves who groan under the scourges of despotic power. That the house of commons once fulfilled this office, is certain. That all our liberties were secured and established by its constant energy, is acknowledged. We recollect with pride and triumph the glorious exertions of our fathers within these walls, where tyranny was, century after century, combated and defeated, and the liberties of England and the world established. It may be asked, wherefore it is, that when the house of commons, in its present frame, has so balanced the crown and so reared up the British government from infancy to maturity, we are called upon to restore a house of commons to its original purity and vigor, elected as it is like all former ones in the happiest eras? it may be asked, why we stir upon such a subject, even in this crisis of dismay, when every moment teems with the most portentous events—when every succeeding day makes the evils of the former one appear like security and blessing —when perhaps we have not much longer to remain in a state of regular government? [A cry of order, order! from the Treasury Bench] Sir, I am not to be deterred by clamor from expressing the sentiments which press upon my understanding

and my heart. Whatever the house may think of this language, I shall not be condemned for it by the people who gave it its authority. This is a moment when to conceal, or even to tamper with the truth, from the affectation of delicacy or prudence, is to betray the country. Why is it then, that in such a moment, the disgrace and danger of which no man can give adequate utterance to, do I stand up to require you to alter the frame of the house of commons thus admitted to have fulfilled for ages the purposes of its institution? The answer is plain and easy. The circumstances of our situation are no longer the same. Whilst the people of England were engaged in a struggle for their liberties against a powerful and arbitrary executive, acting by prerogative, and not by influence and corruption, it was enough that there was a house of commons. Whoever sent the members, they had, when assembled, a common interest with the whole body of the nation. Common danger united them against the crown, and they had nothing to buy off individuals from the performance of their duty to the whole. When the crown could not buy this House, it was driven to curb its privileges. This made the house as one man, and the representatives of ten or of ten thousand had the same interests on all political objects.

If a principle so obvious required proof or illustration, we have only to look back to the struggles of the house of commons during the reigns of the Stuarts. We there behold it in its genuine office and character, reflecting the image of the constituent body, partaking all its feelings, and contending with wisdom and firmness against every encroachment of the crown. But human establishments are not made for immortality: they must change with the insensible changes in human affairs, or must perish by violence. The revolution of 1688 was a glorious era in the constitution of England: it established the true principles of all political constitutions in maintaining the immutable right of the people to correct its government; but, unfortunately, too little care was taken to guard against abuses in the government so corrected. The formidable prerogatives of the sovereign were, indeed, reduced within the bounds of a just executive authority, and limited by the strict letter of the laws. But the terror and jealousy of the people were quieted by this victory, and the mild and seducing dominion of influence stole upon us insensibly in its stead, bestowing a greater and more fatal authority than ever existed in the most arbitrary periods of the government. The gradual creation of a mighty revenue, rising up amidst the glory and prosperity of the empire, undermined in a few years that nicely-poised constitution which unjust power, though exerted for centuries, had only served to

strengthen and confirm. The crown, instead of being balanced and curbed in this house, has, during the greatest part of this century, erected its standard within these walls, and thrown the privileges of the people into the scale of the prerogative to govern the nation at pleasure without any control at all. So far indeed is the house of commons from being a control upon the crown, that it is the great engine of its power. The crown by appearing to act with the consent of the people through their representatives, though in fact by its own influence, is enabled to carry on a system which the most absolute prince could not have fastened upon England for centuries past. Taking this proposition in the abstract, who shall now be found to question it? The most celebrated commentators upon our laws have been compelled to lament it publicly in their writings on the constitution; and Mr. Justice Blackstone, with all his leanings to the crown, has fairly confessed that such a system could not have been intended by our patriot ancestors, who had struggled to curb the prerogative, but by an unaccountable want of foresight, had established a principle most dangerous in its stead. So said the illustrious Lord Chatham, the virtuous Sir G. Saville, and the learned Lord Camden. So, lastly, said the right honorable gentleman himself, and he would not have said so in vain, had he honorably persevered in that glorious course which was the nurse of his fame, and the pledge and promise of his youth to his country, and to the universe. I do not bring this to the memory of the house for the purpose of personal insult or mortification, but to add the authority of his understanding to the other great ones I have cited. It may be said, however, that these great authorities were all reformers; and we know that the wisest men are sometimes seduced by their prejudices and opinions to push their observations beyond the mark. Let me look, therefore, for a witness without exception—a witness to whose competency the present ministers can take no exception, and who, as he abhorred reform, must be supposed to have disclosed unwillingly the disgraces of Parliament. Hear his opinion upon the office of Parliament, and the shameful departure from it in practice; and then let every man look into the glass of his own conscience, and let the house, if it can bear the picture, say, whether it be like us at this hour.

"Whatever alterations time and the necessary accommodations of business may have introduced, this character can never be sustained, unless the house of commons shall be made to bear some stamp of the actual disposition of the people at large. It would be an evil more natural and tolerable, that the house of commons should be infected with every epidemical frenzy

of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should, in all cases, be wholly untouched by the opinions and feelings of the people out of doors. By this want of sympathy they would cease to be a house of commons; for it is not the derivation of the power of that house from the people, which makes it in a distinct sense their representative; for the King is the representative of the people, so are the Lords, and so are the Judges; for they all are trustees for the people, as well as the commons; because no power is given for the sole sake of the holder; and although government is certainly an institution of divine authority, yet its forms and the persons who administer it, all originate from the people.

A popular origin cannot therefore be the characteristical distinction of a popular representative, which belongs equally to all parts of government and in all forms. The virtue, spirit, and essence of a House of Commons consist in its being the express image of the feelings of the nation. It was not instituted to be a control upon the people, as of late it has been taught, by a doctrine of the most pernicious tendency, but as a control for the people. Other institutions have been formed for the purpose of checking popular excesses; and they are I apprehend fully adequate to their object; if not, they ought to be made so. But the House of Commons, as it was never intended for the support of peace and subordination, is miserably appointed for that service; having no stronger weapon than its mace, and no better officer than its serjeant-at-arms which it can command of its own authority. A vigilant and jealous eye over executory and judicial magistracy; an anxious care of public money; an openness approaching towards facility, to public complaint;—these seem to be the true characteristics of a House of Commons. But an addressing House of Commons, and a petitioning nation; a House of Commons full of confidence, when the nation is plunged in despair; in the utmost harmony with ministers, whom the people regard with the utmost abhorrence; who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant, when the general voice demands reckoning and account; who in all disputes between the people and administration, presume against the people; who punish their disorders, but refuse even to inquire into the provocations to them. This is an unnatural, a monstrous state of things in this Constitution. Sir, this is, in plain English, the degraded disgraceful state of this assembly at this moment. There was a time, and it has undergone no improvement since, when the right honorable gentleman admitted this to be the truth. He admitted during the American

war, what he denies to maintain his own war. Does any man now doubt that the constitution of this house was the cause of war with America, of the dismemberment of the empire which followed it, and of all the portentous consequences which have since crowded in its train? It has been often said that the American war was at first the war of the people. No doubt it was, as every act of government will be popular which does not proceed merely from the Crown, but begins with the general sanction of the people's representatives. The Crown secures all the men of influence, property, and consideration in Parliament; and they carry the people with them, until they are at last brought to their senses by calamity and impending ruin. My proposition therefore is, that with the management of our mighty revenue in the hands of the Crown, and taking into consideration the manner in which the members of the house are elected, the House of Commons has totally lost its original office and character as a balance against the Crown.

Sir, it is often, perhaps always, by the concurrence of accidents rather than by the operation of permanent causes, that the great events of the world are brought to pass. The seeds of reformation, which had been scattered in the ground by these great men, came up at first but slowly; but they were carefully gathered, and resown by the right honorable gentleman himself. In the fullness of time, they grew up into strength; and but for his own fatal efforts, would have then ripened into a glorious harvest. But that which a man soweth, that shall he reap.—It was in vain that the right honorable gentleman, at the head of a corrupt government, endeavored to repress the doctrines which he had propagated himself. He sought in vain to extinguish the popularity of a reform in Parliament, without which he had himself solemnly and deliberately maintained within these walls, that the liberties of this nation were undone. Unfortunately, however, he made the attempt, aided by the very corruptions, to the baneful effects of which he had himself opposed the reform, which he now persecuted. It was from this unprincipled opposition, and not from any republican contagion, that the spirit of the reformers acquired new energy, and force. This was the source of all that bitterness with which they accused and reviled the late House of Commons. For this cause they despised, and for this cause they therefore libelled the late Parliament, because they saw it struggling to maintain its own corruptions under the auspices of the very minister who had solemnly declared them to be wholly incompatible with the very being of an upright administration. I do not overlook the danger of such a state of things. I feel as much as any man the inevitable ruin of every government,

when is suffered to fall into contempt and disregard with the people. But knowing that no such loss of authority ever happened from the beginning of the world, but when governments fell off from the ends of their institution, I feel in common with my excellent and enlightened friend who has moved the proposition, that the only cure for the evils which alarm government for its safety is, to make it what it has been in the days of our fathers, when it preserved the freedom of the people, and was crowned with the people's love and veneration. Upon that sound principle Mr. Grey brought forward his former motion in the year 1793, which I then seconded, as I am now doing the motion of to-night. We thought that the surest antidote against those visionary and dangerous theories which constantly spring up from the heat of revolutionary movements, was to hold out to the people the real advantages which the British Constitution in its native simplicity and purity was calculated to bestow. To raise a standard, around which the lovers of English liberty might proudly rally, to which all wanderers from it might return, and which would secure allegiance not by terror, which always fails in the moment of peril, but by the enjoyment of solid and substantial happiness; by the return of mild laws, of personal security, and the enjoyment of the fruits of their own industry, which are now squeezed to the very husks by the grinding machinery of a crushing and overwhelming revenue. This proposition was, however, rejected, and not merely rejected, but rejected with insult and contempt. The right honorable gentleman, not contented with apostatizing from the principles he once professed, resisted them in a spirit and language of the loftiest pride and arrogance, which have since received their just rebuke in disgrace and humiliation. The cause of reform was to be, at all events, pulled down; and all who maintained it were to be stigmatized, persecuted and oppressed. This is the clue to every measure of government from that time to the present. The reformers had mixed with their cause an enthusiasm for the liberties of France, and for that reason the liberties of France were to be crushed. But the insolence with which the mighty changes of the rising world were denounced within these walls, is an awful lesson to mankind. It has taught us, that there is an arm fighting against the oppressors of freedom, stronger than any arm of flesh; and that the great progressions of the world, in spite of the confederacies of power, and the conspiracies of corruption, move on with a steady pace, and arrive in the end at a happy and glorious consummation. I have always thought alike concerning the French revolution, and I have not now to assume that tone in the moment of adversity in which France

must now be spoken to by those, who, from their vain defiances have invested her with portentous strength. The object of ministers was, it seems, to maintain the subordination of the laws, to uphold public credit, and to maintain, as they styled it, the regular system of things. What has been the consequence? In the pursuit of this new mode of supporting monarchical establishments, they have absolutely changed, and are hourly changing, into republican establishments, the whole face of the earth. In support of public credit, they have broke the Bank; and in pursuit of public order, and in maintenance of what they call the Constitution they are driving Ireland, as America was formerly driven, to seek for emancipation in the arms of France; and if the present system be pursued longer, I maintain that what Ireland is at this moment, England will shortly be. All this portentous scene is chargeable on the last Parliament. No minister of the Crown could have accomplished the ruin of the country, without a compliant and corruptly devoted infatuated House of Commons. I maintain, that if upon the day that our former motion for a reform was rejected, which was about the beginning of the career of his Majesty's ministers; I maintain, that if the most arbitrary and rapacious tyrant that ever afflicted mankind by his ambition, had invaded and conquered England, he could not, consistently with common policy or prudence, in the disposition of what he had subjugated and appropriated, had leaned so heavily upon all the springs of national industry, or so dried up the resources of posterity for ages to come, as the last Parliament has done under the title of guardians of our prosperity. I maintain, that Zengishkan, would in wisdom have refrained from raising two hundred millions sterling upon this conquered island in the space of four years; and I maintain that he could not be so besotted as to have stirred up the conquered to revolt against his authority by arbitrary laws, by public bankruptcy, and a total prescription of that character of freedom which had for ages belonged to a people; and I maintain, lastly, that I believe the country would have died to a man rather than have submitted to what they are now sinking under, amidst that stupefaction and prostration of strength and energy which the baseness of corruption never failed to produce in the declines of nations from the beginning of the world. But the government which rests on no other basis, is not made for stability or duration. It interests no passion or affections, and is connected by no permanent principle with the feelings or interests of mankind. It stands for a season upon the mass of national subjection, shaken from time to time by irritated and indignant feelings, which terror may suppress but never can subdue or extinguish, till the moment

of explosion arrives, which suddenly overwhelms it in ruin: for know, that, in some new form or other, the original rights of mankind will surely be reassumed, and the monuments of tyranny and injustice be overthrown. [Here there was a loud cry from the Treasury Bench of "order."] Gentlemen seem to be dissatisfied at the language I have employed, and at the catastrophe I have pointed out; but they should recollect, that it is the progress of their own system I have described. I deprecate the events to which it leads, and labor, therefore, to warn them while yet it is time to shun the precipice to which they are so madly rushing. I can take no interest in a new order of things. All the fruits of a life of almost unexampled labor, are involved in the fate of the country under its present system. The security of all I possess is connected with the stability of the Constitution; and this is the best pledge of my sincerity. The disgraceful and living examples of many with whom I once ought not to have compared myself, have nearly destroyed all other trust.

The second point and certainly the most momentous, now stands in its order, *viz.* Is the present a fit moment for making any alteration, however beneficial, in the Constitution of the Government?—My opinion is, that it is,—that it is singularly and critically seasonable; and that those who seize upon the time as a foundation for objection, would lay the same hold on prosperity, if it were proposed on the return of peace. To try this, let us suppose that our situation was reversed, that commerce was flourishing, that our public credit was beginning to re-establish itself; that the winter of our affairs had passed away, and the summer was beginning to reappear—would it not then be said to the proposers of reform, What but mischief can be your object? No sooner are the springs of industry again put in motion—no sooner are the sources of commerce unlocked, and are pouring forth the riches of the country in every direction—no sooner has returning confidence in a reanimated government given a new impulse to every exertion of skill, and new directions to labor and ingenious industry, than you agitate your question of reform to set men mad upon theories of government, instead of supporting it by the peaceable enjoyment of its practical blessings, checking the rising prosperity of peace, and plunging us back into all the dangers and difficulties from which we had almost miraculously emerged. In this way the friends of reform would again be clamored down, and stigmatized with new topics of reproach, enforced by all the new corruptions which peace would furnish, and in which the seeds of other wars would again be certainly deposited and ripened. Depend upon it, the

enemies of reform are unalterable enemies to it upon principle, and will find no time seasonable for its adoption.

That which men are determined to oppose, from a corrupt interest in abuse, they will oppose at all times and upon all occasions, though dissimilar times and occasions, as they happen accidentally to shift, will be alternately made use of as pretences. But it is farther said, in objection to the time, that there is at this moment a dangerous disaffection prevalent in the minds of men to the government of this country, and that pestilent and destructive theories have poisoned public opinion against all monarchical Constitutions. There may, sir, be many persons disaffected to government. [Hear, Hear, from the opposite side.] I put the case which the gentlemen on the other side are so loud to give assent to, and, though the existence of disaffection may be true concerning all government in all times, yet I deny it to be true in the degree which has in this house been so repeatedly asserted. But admitting, for the sake of argument, that the imputation of wide-spread disaffection is just, how is the evil to be remedied? If despair of obtaining any moderate reform has driven any considerable numbers to republicanism, to whom is the fault to be imputed? Will any man deny that the foundation of this spirit, whatever may be its extent, was laid in the declarations of the right honorable gentleman himself, who affirmed that it was impossible an upright or useful administration could exist whilst the house was constituted as it is, and who has unanswerably illustrated the truth of his position by the evidence of his own? Did he imagine that he could plant the root, and prevent the shoots from springing up? Does the right honorable gentleman think, that he can extinguish in the minds of the people that distrust of the present system of government which he himself has taught them to entertain? Or does he think, by coercion, to make them tamely submit to those abuses which he himself was the foremost to expose? Does he think to guard the Constitution from violence by persecuting those who would peaceably reform it? Does he think to silence the voice of complaint by a sullen refusal to remedy the grievance? This road may be pursued for a season; but the end thereof is Death.

Instead of inflaming by persecution, let me advise you to conciliate by seasonable concession. The system of terror can neither remove nor silence a deep-rooted and well-founded discontent. Let me remind you of the opinion of Mr. Burke upon this subject. Much as I now differ from that great man, much as I lament that he has mis-employed his extraordinary talents to render prevalent those errors which have entailed such frightful consequences, it is impossible not to admire that

profound wisdom which formerly distinguished his efforts in the cause of humanity and justice. In the fatal contest with America, he most luminously marked out the great duties and interests of government in moments of emergency, and has shown them to be inseparable. "If there be one criterion," said Mr. Burke, "which more than all the rest distinguishes a wise and prudent Government from an administration weak and improvident, it is this, well to know when and in what manner to yield what it is impossible to keep. Early reformations are amicable compromises with a friend in power—Late reformations are terms imposed upon a conquered enemy. Early reformations are made in cool blood.—Late reformations are made in a state of inflammation. In such a state, the people see in government nothing respectable. They will look at the grievance, and they will look at nothing else. Like a furious populace provoked by the abuses of a house of ill-fame, they no longer think of regulation—they go to work the shortest way—they abate the nuisance—they pull down the house."—This is a sort of epitome of universal history; above all, of the history of the times we live in. From the proud rejection of these maxims of policy and prudence, the governments of Europe are one after another tumbling into ruin by sudden violence instead of being insensibly altered by peaceable reformation. To this cause the original independence of America is to be ascribed. In the beginning she sought only the reasonable privileges of a dependent community. It was the refusal that gave birth to her independence. We refused to look at her grievances whilst they were curable.

The same procrastinating spirit prevailed at that period which prevails now, and the same delusion as to the effects of terror and coercion. Lord Chatham's warning voice was rejected. "Give satisfaction to America," said that great statesman—"Conciliate her affection—Do it to-night—Do it before you sleep." But we slept and did it not, and America was separated from us for ever.

Ireland in the same manner obtained a sudden and unsought for independence, and has been brought to her present state of alarming hostility to this country. We refused to see what stared us in the face in characters reddening into blood; but the light broke in upon us at last, not through well constructed windows, but through the yawning chasms of our ruin. We were taught wisdom through humiliation—I am afraid we have much more to learn in that useful but melancholy school. The identical system by which America was lost to Great Britain, ministers are now acting over again with regard to Ireland at this moment. They refuse to redress her grievances

They listen not to her complaints: what America was, Ireland, perhaps England itself, will shortly be, if you obstinately refuse to adopt that system of conciliation which alone can bring back affection and obedience to any government which has lost it.

I can have no interest, sir, in painting my country in such dismal colors—I can have no desire to see the land I live in and in which I inherit so many comforts and advantages, involved in confusion and blood. My only wish is to see a happy, powerful, disinterested union, which may save from destruction the constitution of our fathers. But whatever is to be done, must be done quickly. If discontent arises, and what is now petitioned for is brought forward as an imperious demand you are disrobed of all choice and deliberation. Think of this awful conjuncture, whilst thinking is of any use. For my own part, I solemnly declare that I think there is no alternative between an immediate reform by which the nation may be made happy, and a revolution by which it will be involved in blood and ruin. I may be told that bad men may avail themselves of a moderate reform to compass the utter overthrow of the Constitution. But if there really be those whom no concession can satisfy, yet by the very attempt you will add to the number of those who will feel new attachment to the Constitution, and new ardor in its defence. You will separate those who are sincerely attached to the genuine principles of the Constitution, from those who may secretly wish to destroy it. You will unmask those whose views go beyond reform: you will deprive them of that pretence which gives effect to their animosity; and you will furnish the government with new strength to resist their machinations. Let ministers instantly forego that fatal system of coercion which forced America from her connexion with us into the arms of France, and which is, at this very moment, driving Ireland to seek the same protection. Let them relinquish the insane attempt to retain the affection of that country by the point of the bayonet, which is hourly tearing out of the hearts of Irishmen those feelings of kindness and love for England upon which the permanence of the union between the two countries can alone be established. This fatal system of coercion and terror, which ministers seem resolved to persevere in, has made half Europe submit to the arms of France, and has given the air of romance or rather of enchantment to the career of her conquests. Now in Holland —now on the Rhine—almost at the same moment overturning the states of Italy, and overawing the empire at the gates of Vienna. Without meaning to under-rate the unexampled energies of a mighty nation repelling the atrocious combinations of despotism against her liberties, the nations with which she

contended had no privileges to fight for, nor any governments worth preserving; they felt therefore no interest in their preservation. Whilst the powers of such governments remained, their subjects were drawn up in arms, and appeared to be armies; but when invasion had silenced the power which oppressed them, they became in a moment the subjects and the soldiers of their invaders. Take warning from so many examples—the principles of revolution are eternal and universal.

Let me conclude with repeating again, that the condition of this country renders a reform most critically seasonable. The nation stands in the most perilous predicament. Government is forced to call upon the people for greater exertions than at former times: burdens which appeared impracticable even in speculation, are now to be carried into practical effect. This must be done either by affection or coercion; and this is the moment for the choice. Give the people the blessings of the Constitution, and they will arm with ardor in its defence: raise within these walls a standard which was never before raised, around which the friends of the Constitution may rally, and to which the people will be attracted by the feelings of confidence and attachment; and it will give general satisfaction; it will unite all who are divided, and create a general spirit to bear up against the calamities by which we are surrounded.

SPEECH OF MR M'INTOSH,

(SINCE, SIR JAMES M'INTOSH,)

IN THE COURT OF KING'S BENCH, FEBRUARY 21, 1803, ON THE TRIAL OF M. PELTIER FOR A LIBEL ON THE FIRST CONSUL OF THE FRENCH REPUBLIC.

GENTLEMEN OF THE JURY,

The time is now come for me to address you on behalf of the unfortunate gentleman who is the defendant on this record.

I must begin with observing, that though I know myself too well to ascribe to anything but to the kindness and good nature of my learned friend the attorney general, the unmerited praises which he has been pleased to bestow on me, yet I will venture to say, he has done me no more than justice in supposing that in this place, and on this occasion, where I exercise the functions of an inferior minister indeed, but a minister of justice still, I am incapable of lending myself to the passions of any client, and that I will not make the proceedings of this court subservient to any political purpose.

Whatever is respected by the laws and government of my country shall, in this place, be respected by me. In considering matters that deeply interest the quiet, the safety, and the liberty of all mankind, it is impossible for me not to feel warmly and strongly; but I shall make an effort to control my feelings however painful that effort may be, and where I cannot speak out, but at the risk of offending either sincerity or prudence, I shall labor to contain myself and be silent.

I cannot but feel, gentlemen, how much I stand in need of your favorable attention and indulgence. The charge which I have to defend is surrounded with the most invidious topics of discussion; but they are not of my seeking. The case and the topics which are inseparable from it, are brought here by the prosecutor.

Here I find them, and here it is my duty to deal with them, as the interests of M. Peltier seem to me to require. He, by his choice and confidence, has cast on me a very arduous duty, which I could not decline, and which I can still less betray. He has a right to expect from me, a faithful, a zealous, and a fearless defence; and this his just expectation, according to the measure of my humble abilities shall be fulfilled. I have said

a fearless defence. Perhaps that word was unnecessary in the place where I now stand. Intrepidity in the discharge of professional duty is so common a quality at the English bar, that it has, thank God, long ceased to be a matter of boast or praise. If it had been otherwise, gentlemen, if the bar could have been silenced or overawed by power, I may presume to say, that an English jury would not this day have been met to administer justice. Perhaps I need scarce say that my defence *shall* be fearless, in a place where fear never entered any heart but that of a criminal. But you will pardon me for having said so much, when you consider who the real parties before you are.

Gentlemen, the real prosecutor is the master of the greatest empire the civilized world ever saw. The defendant is a defenceless proscribed exile. He is a French royalist, who fled from his country in the autumn of 1792, at the period of that memorable and awful emigration when all the proprietors and magistrates of the greatest civilized country of Europe were driven from their homes by the daggers of assassins; when our shores were covered, as with the wreck of a great tempest, with old men, and women, and children, and ministers of religion, who fled from the ferocity of their countrymen as before an army of invading barbarians.

The greatest part of these unfortunate exiles, of those I mean who have been spared by the sword, who have survived the effect of pestilential climates or broken hearts, have been since permitted to revisit their country. Though despoiled of their all, they have eagerly embraced even the sad privilege of being suffered to die in their native land.

Even this miserable indulgence was to be purchased by compliances, by declarations of allegiance to the new government, which some of these suffering royalists deemed incompatible with their consciences, with their dearest attachments, and their most sacred duties. Among these last is M. Peltier. I do not presume to blame those who submitted, and I trust you will not judge harshly of those who refused. You will not think unfavorably of a man who stands before you as the voluntary victim of his loyalty and honor. If a revolution (which God avert) were to drive us into exile, and to cast us on a foreign shore, we should expect, at least, to be pardoned by generous men, for stubborn loyalty, and unseasonable fidelity to the laws and government of our fathers.

This unfortunate gentleman had devoted a great part of his life to literature. It was the amusement and ornament of his better days. Since his own ruin, and the desolation of his country, he has been compelled to employ it as a means of support. For the last ten years he has been engaged in a variety

of publications of considerable importance; but, since the peace, he has desisted from serious political discussion, and confined himself to the obscure Journal which is now before you; the least calculated, surely, of any publication that ever issued from the press, to rouse the alarms of the most jealous government; which will not be read in England, because it is not written in our language; which cannot be read in France because its entry into that country is prohibited by a power whose mandates are not very supinely enforced, nor often evaded with impunity; which can have no other object than that of amusing the companions of the author's principles and misfortunes, by pleasantries and sarcasms on their victorious enemies. There is, indeed, gentlemen, one remarkable circumstance in this unfortunate publication: it is the only, or almost the only, journal, which still dares to espouse the cause of that royal and illustrious family, which but fourteen years ago was flattered by every press, and guarded by every tribunal in Europe. Even the court in which we are met affords an example of the vicissitudes of their fortune. My learned friend has reminded you, that the last prosecution tried in this place, at the instance of a French government, was for a libel on that magnanimous princess, who has since been butchered in sight of her palace.

I do not make these observations with any purpose of questioning the general principles which have been laid down by my learned friend. I must admit his right to bring before you those who libel any government recognized by his majesty, and at peace with the British empire. I admit that whether such a government be of yesterday, or a thousand years old, whether it be a crude and bloody usurpation, or the most ancient, just, and paternal authority upon earth, we are *here* equally bound by his majesty's recognition to protect it against libellous attacks. I admit that if, during our usurpation, Lord Clarendon had published his history at Paris, or the Marquis of Montrose his verses on the murder of his sovereign, or Mr. Cowley his Discourse on Cromwell's government, and if the English ambassador had complained, the President de Molé, or any other of the great magistrates who then adorned the parliament of Paris, however reluctantly, painfully, and indignantly, might have been compelled to have condemned these illustrious men to the punishment of libellers. I say this only for the sake of bespeaking a favorable attention from your generosity and compassion to what will be feebly urged in behalf of my unfortunate client, who has sacrificed his fortune, his hopes, his connexions, his country, to his conscience; who seems marked out for destruction in this his last asylum.

That he still enjoys the security of this asylum, that he has not been sacrificed to the resentment of his powerful enemies, is perhaps owing to the firmness of the king's government. If that be the fact, gentlemen; if his majesty's ministers have resisted applications to expel this unfortunate gentleman from England, I should publicly thank them for their firmness, if it were not unseemly and improper to suppose that they could have acted otherwise—to thank an English government for not violating the most sacred duties of hospitality; for not bringing indelible disgrace on their country.

But be that as it may, gentlemen, he now comes before you, perfectly satisfied that an English jury is the most refreshing prospect that the eye of accused innocence ever met in a human tribunal; and he feels with me the most fervent gratitude to the Protector of empires, that, surrounded as we are with the ruins of principalities and powers, we still continue to meet together, after the manner of our fathers, to administer justice in this her ancient sanctuary.

There is another point of view in which this case seems to me to merit your most serious attention. I consider it as the first of a long series of conflicts between the greatest power in the world, and the only free press remaining in Europe. No man living is more thoroughly convinced than I am, than my learned friend, Mr. Attorney General, will never degrade his excellent character; that he will never disgrace his high magistracy by mean compliances, by an immoderate and unconscientious exercise of power; yet I am convinced by circumstances which I shall now abstain from discussing, that I am to consider this as the first of a long series of conflicts, between the greatest power in the world, and the only free press now remaining in Europe. Gentlemen, this distinction of the English press is new; it is a proud and melancholy distinction. Before the great earthquake of the French revolution had swallowed up all the asylums of free discussion on the continent, we enjoyed that privilege, indeed, more fully than others; but we did not enjoy it exclusively. In great monarchies the press has always been considered as too formidable an engine to be intrusted to unlicensed individuals. But in other continental countries, either by the laws of the state, or by long habits of liberality and toleration in magistrates, a liberty of discussion has been enjoyed, perhaps sufficient for most useful purposes. It existed, in fact, where it was not protected by law; and the wise and generous connivance of governments was daily more and more secured by the growing civilization of their subjects In Holland, in Switzerland, in the imperial towns of Germany, the press was either legally or practically free. Holland and

Switzerland are no more; and since the commencement of this prosecution, fifty imperial towns have been erased from the list of independent states, by one dash of the pen. Three or four still preserve a precarious and trembling existence. I will not say by what compliances they must purchase its continuance. I will not insult the feebleness of states whose unmerited fall I do most bitterly deplore.

These governments were in many respects one of the most interesting parts of the ancient system of Europe. Unfortunately for the repose of mankind, great states are compelled by regard to their own safety, to consider the military spirit and martial habits of their people as one of the main objects of their policy. Frequent hostilities seem almost the necessary condition of their greatness; and, without being great, they cannot long remain safe. Smaller states, exempted from this cruel necessity; a hard condition of greatness, a bitter satire on human nature; devoted themselves to the arts of peace, to the cultivation of literature, and the improvement of reason. They became places of refuge for free and fearless discussion; they were the impartial spectators and judges of the various contests of ambition, which from time to time disturbed the quiet of the world. They thus became peculiarly qualified to be the organs of that public opinion which converted Europe into a great republic, with laws which mitigated, though they could not extinguish ambition; and with moral tribunals to which even the most despotic sovereigns were amenable. If wars of aggrandizement were undertaken, their authors were arraigned in the face of Europe. If acts of internal tyranny were perpetrated, they resounded from a thousand presses throughout all civilized countries. Princes on whose will there were no legal checks, thus found a moral restraint which the most powerful of them could not brave with absolute impunity. They acted before a vast audience, to whose applause or condemnation they could not be utterly indifferent. The very constitution of human nature, the unalterable laws of the mind of man, against which all rebellion is fruitless, subjected the proudest tyrants to this control. No elevation of power, no depravity, however consummate, no innocence, however spotless, can render man wholly independent of the praise or blame of his fellow-men.

These governments were in other respects one of the most beautiful and interesting parts of our ancient system. The perfect security of such inconsiderable and feeble states, their undisturbed tranquillity amidst the wars and conquests that surrounded them, attested beyond any other part of the European system, the moderation, the justice, the civilization to

which Christian Europe had reached in modern times. Their weakness was protected only by the habitual reverence for justice, which, during a long series of ages, had grown up in Christendom. This was the only fortification which defended them against those mighty monarchs to whom they offered so easy a prey. And till the French revolution this was sufficient. Consider, for instance, the situation of the republic of Geneva. Think of their defenceless position in the very jaws of France; out think also of her undisturbed security, of her profound quiet, of the brilliant success with which she applied to industry and literature, while Louis XIV. was pouring his myriads into Italy before her gates. Call to mind, if ages crowded into years have not effaced them from your memory, that happy period when we scarcely dreamt more of the subjugation of the feeblest republic of Europe, than of the conquest of her mightiest empire, and tell me if you can imagine a spectacle more beautiful to the moral eye, or a more striking proof of progress in the noblest principles of true civilization.

These feeble states, these monuments of the justice of Europe, the asylum of peace, of industry, and of literature, the organs of public reason, the refuge of oppressed innocence and persecuted truth, have perished with those ancient principles which were their sole guardians and protectors. They have been swallowed up by that fearful convulsion, which has shaken the uttermost corners of the earth. They are destroyed and gone for ever.

One asylum of free discussion is still inviolate. There is still one spot in Europe where man can freely exercise his reason on the most important concerns of society, where he can boldly publish his judgment on the acts of the proudest and most powerful tyrants. The press of England is still free. It is guarded by the free constitution of our forefathers. It is guarded by the hearts and arms of Englishmen, and I trust I may venture to say, that if it be to fall, it will fall only under the ruins of the British empire.

It is an awful consideration, gentlemen. Every other monument of European liberty has perished. That ancient fabric which has been gradually reared by the wisdom and virtue of our fathers still stands—It stands, thanks be to God! solid and entire—but it stands alone, and it stands amidst ruins.

In these extraordinary circumstances, I repeat that I must consider this as the first of a long series of conflicts between the greatest power in the world and the only free press remaining in Europe. And I trust that you will consider yourselves as the advanced guard of liberty, as having this day to fight the first battle of free discussion against the most formidable enemy

that it ever encountered. You will therefore excuse me, if on so important an occasion I remind you, at more length than is usual, of those general principles of law and policy on this subject, which have been handed down to us by our ancestors.

Those who slowly built up the fabric of our laws, never attempted anything so absurd as to define by any precise rule the obscure and shifting boundaries which divide libel from history or discussion. It is a subject which, from its nature, admits neither rules nor definitions. The same words may be perfectly innocent in one case, and most mischievous and libellous in another. A change of circumstances, often apparently slight, is sufficient to make the whole difference. These changes, which may be as numerous as the variety of human intentions and conditions, can never be foreseen nor comprehended under any legal definitions, and the framers of our law have never attempted to subject them to such definitions. They left such ridiculous attempts to those who call themselves philosophers, but who have, in fact, proved themselves most grossly and stupidly ignorant of that philosophy which is conversant with human affairs.

The principles of the law of England on the subject of political libel are few and simple, and they are necessarily so broad, that, without an habitual mild administration of justice, they might encroach materially on the liberty of political discussion. Every publication which is intended to vilify either our own government, or the government of any foreign state in amity with this kingdom, is, by the law of England, a libel. To protect political discussion from the danger to which it would be exposed by these wide principles, if they were severely and literally enforced, our ancestors trusted to various securities; some growing out of the law and constitution, and others arising from the character of those public officers whom the constitution had formed, and to whom its administration is committed. They trusted in the first place to the moderation of the legal officers of the crown, educated in the maxims and imbued with the spirit of a free government; controlled by the superintending power of parliament, and peculiarly watched in all political prosecutions by the reasonable and wholesome jealousy of their fellow subjects. And I am bound to admit that since the glorious era of the revolution, making due allowance for the frailties, the faults, and the occasional vices of men, they have, upon the whole, not been disappointed. I know that in the hands of my learned friend, that trust will never be abused. But, above all, they confided in the moderation and good sense of juries, popular in their origin, popular in their feelings, popular in their very prejudices, taken from the mass

of the people and immediately returning to that mass again. By these checks and temperaments they hoped that they should sufficiently repress malignant libels, without endangering that freedom of inquiry which is the first security of a free state. They knew that the offence of a political libel is of a very peculiar nature, and differing in the most important particulars from all other crimes. In all other cases the most severe execution of law can only spread terror among the guilty; but in political libels it inspires even the innocent with fear. This striking peculiarity arises from the same circumstances which make it impossible to define the limits of libel and innocent discussion; which make it impossible for a man of the purest and most honorable mind, to be always perfectly certain, whether he be within the territory of fair argument and honest narrative, or whether he may not have unwittingly overstepped the faint and varying line which bounds them. But, gentlemen, I will go further. This is the only offence where severe and frequent punishments not only intimidate the innocent, but deter men from the most meritorious acts, and from rendering the most important services to their country. They indispose and disqualify men for the discharge of the most sacred duties which they owe to mankind. To inform the public on the conduct of those who administer public affairs, requires courage and conscious security. It is always an invidious and obnoxious office; but it is often the most necessary of all public duties. If it is not done boldly, it cannot be done effectually, and it is not from writers trembling under the uplifted scourge, that we are to hope for it.

There are other matters, gentlemen, to which I am desirous of particularly calling your attention. These are the circumstances in the condition of this country, which have induced our ancestors, at all times, to handle, with more than ordinary tenderness, that branch of the liberty of discussion which is applied to the conduct of foreign states. The relation of this kingdom to the commonwealth of Europe, is so peculiar, that no history, I think, furnishes a parallel to it. From the moment in which we abandoned all projects of continental aggrandizement, we could have no interest respecting the state of the continent, but the interests of national safety, and of commercial prosperity. The paramount interest of every state, that which comprehends every other, is *security*. And the security of Great Britain requires nothing on the continent but the uniform observance of justice. It requires nothing but the inviolability of ancient boundaries, and the sacredness of ancient possessions, which, on these subjects, is but another form of words for justice. A nation which is herself shut out from

the possibility of continental aggrandizement, can have no interest but that of preventing such aggrandizement in others. We can have no interest of safety but the preventing of those encroachments, which, by their immediate effects, or by their example, may be dangerous to ourselves. We can have no interest of ambition respecting the continent. So that neither our real, nor even our apparent interests can ever be at variance with justice.

As to commercial prosperity, it is, indeed, a secondary, but it is still a very important branch of our national interests, and it requires nothing on the continent of Europe, but the *maintenance of peace*, as far as the paramount interest of security will allow.

Whatever ignorant or prejudiced men may affirm, no war was ever gainful to a commercial nation. Losses may be less in some, and incidental profits may arise in others. But no such profits ever formed an adequate compensation for the waste of capital and industry which all wars must produce. Next to peace, our commercial greatness depends chiefly on the affluence and prosperity of our neighbors. A commercial nation has, indeed, the same interest in the wealth of her neighbors, that a tradesman has in the wealth of his customers. The prosperity of England has been chiefly owing to the general progress of civilized nations in the arts and improvements of social life. Not an acre of land has been brought into cultivation in the wilds of Siberia, or on the shores of the Mississippi, which has not widened the market for English industry. It is nourished by the progressive prosperity of the world, and it amply repays all that it has received. It can only be employed in spreading civilization and enjoyment over the earth, and by the unchangeable laws of nature, in spite of the impotent tricks of government, it is now partly applied to revive the industry of those very nations who are the loudest in their senseless clamors against its pretended mischiefs. If the blind and barbarous project of destroying English prosperity could be accomplished, it could have no other effect, than that of completely beggaring the very countries who now stupidly ascribe their own poverty to our wealth.

Under these circumstances, gentlemen, it became the obvious policy of the kingdom, a policy in unison with the maxims of a free government, to consider with great indulgence even the boldest animadversions of our political writers, on the ambitious projects of foreign states.

Bold, and sometimes indiscreet, as these animadversions might be, they had at least the effect of warning the people of their danger, and of rousing the national indignation against

those encroachments, which England has almost always been compelled in the end to resist by arms. Seldom, indeed, has she been allowed to wait, till a provident regard to her own safety should compel her to take up arms in defence of others. For as it was said by a great orator of antiquity, that no man ever was the enemy of the republic who had not first declared war against him, so I may say, with truth, that no man ever meditated the subjugation of Europe, who did not consider the destruction, or the corruption of England as the first condition of his success. If you examine history, you will find that no such project was ever formed in which it was not deemed a necessary preliminary, either to detach England from the common cause, or to destroy her. It seems as if all the conspirators against the independence of nations, might have sufficiently taught other states that England is their natural guardian and protector; that she alone has no interest but their preservation; that her safety is interwoven with their own. When vast projects of aggrandizement are manifested, when schemes of criminal ambition are carried into effect, the day of battle is fast approaching for England. Her free government cannot engage in dangerous wars, without the hearty and affectionate support of her people. A state thus situated cannot, without the utmost peril, silence those public discussions, which are to point the popular indignation against those who must soon be enemies. In domestic dissensions, it may sometimes be the supposed interest of government to overawe the press. But it never can be even their apparent interest, when the danger is purely foreign. A King of England who, in such circumstances, should conspire against the free press of this country, would undermine the foundations of his own throne; he would silence the trumpet which is to call his people round his standard.

Our ancestors never thought it their policy to avert the resentment of foreign tyrants, by enjoining English writers to contain and repress their just abhorrence of the criminal enterprises of ambition. This great and gallant nation, which has fought in the front of every battle against the oppressors of Europe, has sometimes inspired fear, but, thank God, she has never felt it. We know that they are our real, and must soon become our declared foes. We know that there can be no cordial amity between the natural enemies and the independence of nations. We have never adopted the cowardly and short-sighted policy of silencing our press, of breaking the spirit and palsying the hearts of our people, for the sake of a hollow and precarious truce. We have never been base enough to purchase a short respite from hostilities, by sacrificing the

first means of defence; the means of rousing the public spirit of the people, and directing it against the enemies of their country and of Europe.

Gentlemen, the public spirit of a people, by which I mean the whole body of those affections which unite men's hearts to the commonwealth, is in various countries composed of various elements, and depends on a great variety of causes. In this country, I may venture to say, that it mainly depends on the vigor of the popular parts and principles of our government; and that the spirit of liberty is one of its most important elements. Perhaps it may depend less on those advantages of a free government, which are most highly estimated by calm reason, than upon those parts of it which delight the imagination, and flatter the just and natural pride of mankind. Among these we are certainly not to forget the political rights which are not uniformly withheld from the lowest classes, and the continual appeal, made to them, in public discussion, upon the greatest interests of the state. These are undoubtedly among the circumstances which endear to Englishmen their government and their country, and animate their zeal for that glorious institution which confers on the meanest of them a sort of distinction and nobility unknown to the most illustrious slaves, who tremble at the frown of a tyrant. Whoever were unwarily and rashly to abolish or narrow these privileges, which it must be owned are liable to great abuse, and to very specious objections, might perhaps discover, too late, that he had been dismantling his country. Of whatever elements public spirit is composed, it is always and everywhere the chief defensive principle of a state. It is perfectly distinct from courage. Perhaps no nation, certainly no European nation, ever perished from an inferiority of courage. And undoubtedly no considerable nation was ever subdued, in which the public affections were sound and vigorous. It is public spirit which binds together the dispersed courage of individuals, and fastens it to the commonwealth. It is, therefore, as I have said, the chief defensive principle of every country. Of all the stimulants which rouse it into action, the most powerful among us is certainly the press; and it cannot be restrained or weakened without imminent danger, that the national spirit may languish, and that the people may act with less zeal and affection for their country in the hour of its danger.

These principles, gentlemen, are not new—they are genuine old English principles. And though in our days they have been disgraced and abused by ruffians and fanatics, they are in themselves as just and sound as they are liberal; and they are the only principles on which a free state can be safely gov-

erned. These principles I have adopted since I first learnt the use of reason, and I think I shall abandon them only with life.

On these principles I am now to call your attention to the libel with which this unfortunate gentleman is charged. I heartily rejoice that I concur with the greatest part of what has been said by my learned friend, Mr. Attorney General, who has done honor even to his character by the generous and liberal principles which he has laid down. He has told you that he does not mean to attack *historical narrative*. He has told you that he does not mean to attack *political discussion*. He has told you also that he does not consider every intemperate word into which a writer, fairly engaged in narration or reasoning, might be betrayed, as a fit subject for prosecution. The essence of the crime of libel consists in the malignant mind which the publication proves and from which it flows. A jury must be convinced, before they find a man guilty of libel, that his intention was to libel, not to state facts which he believed to be true, or reasonings which he thought just. My learned friend has told you that the liberty of history includes the right of publishing those observations which occur to intelligent men when they consider the affairs of the world, and I think he will not deny that it includes also the right of expressing those sentiments which all good men feel on the contemplation of extraordinary examples of depravity or excellence.

One more privilege of the historian, which the Attorney General has not named, but to which his principles extend, it is now my duty to claim on behalf of my client; I mean the right of *republishing, historically*, those documents, whatever their original malignity may be, which display the character, and unfold the intentions, of governments, or factions, or individuals. I think my learned friend will not deny, that an historical compiler may innocently republish in England the most insolent and outrageous declaration of war ever published against his majesty by a foreign government. The intention of the original author was to vilify and degrade his majesty's government; but the intention of the compiler is only to gratify curiosity, or perhaps to rouse just indignation against the calumniator whose production he republishes.—His intention is not libellous—his republication is therefore not a libel. Suppose this to be the case with Mr. Peltier. Suppose him to have republished libels with a merely historical intention. In that case it cannot be pretended that he is more a libeller than my learned friend Mr. Abbott, who read these supposed libels to you when he opened the pleadings. Mr. Abbott republished them to you, that you might know and judge of them—Mr. Peltier, on the supposition

I have made, also republished them that the public might know and judge of them.

You already know that the general plan of Mr. Peltier's publication was to give a picture of the cabals and intrigues, of the hopes and projects, of French factions. It is undoubtedly a natural and necessary part of this plan to republish all the serious and ludicrous pieces which these factions circulate against each other. The ode ascribed to Chenier or Ginguené I do really believe to have been written at Paris, to have been circulated there, to have been there attributed to some one of these writers, to have been sent to England as their work, and as such to have been republished by Mr. Peltier. But I am not sure that I have evidence to convince you of the truth of this. Suppose that I have not; will my learned friend say that my client must necessarily be convicted? I, on the contrary, contend, that it is for my learned friend to show that it is not an historical republication. Such it professes to be, and that profession it is for him to disprove. The profession may indeed be "a mask;" but it is for my friend to pluck off the mask, and expose the libeller, before he calls upon you for a verdict of guilty.

If the general lawfulness of such republications be denied, then I must ask Mr. Attorney General to account for the long impunity which English newspapers have enjoyed. I must request him to tell you why they have been suffered to republish all the atrocious, official and unofficial libels which have been published against his majesty for the last ten years, by the Brissots, the Marats, the Dantons, the Robespierres, the Barrères, the Talliens, the Reubels, the Merlins, the Barrases, and all that long line of bloody tyrants who oppressed their own country, and insulted every other which they had not the power to rob. What must be the answer? That the English publishers were either innocent if their motive was to gratify curiosity, or praiseworthy if their intention was to rouse indignation against the calumniators of their country. If any other answer be made, I must remind my friend of a most sacred part of his duty—the duty of protecting the honest fame of those who are absent in the service of their country. Within these few days, we have seen in every newspaper in England, a publication, called the report of Colonel Sebastiani, in which a gallant British officer is charged with writing letters to procure assassination. The publishers of that infamous report are not and will not be prosecuted, because their intention is not to libel general Stuart. On any other principle, why have all our newspapers been suffered to circulate that most atrocious of all libels against the King and people of England, which purports

to be translated from the Moniteur of the 9th of August, 1802; a libel against a prince who has passed through a factious and stormy reign of forty-three years, without a single imputation on his personal character; against a people who have passed through the severest trials of national virtue with unimpaired glory, who alone in the world can boast of mutinies without murder, of triumphant mobs without massacre, of bloodless revolutions and of civil wars unstained by a single assassination. That most impudent and malignant libel, which charges such a king of such a people not only with having hired assassins, but with being so shameless, so lost to all sense of character, as to have bestowed on these assassins, if their murderous projects had succeeded, the highest badges of public honor, the rewards reserved for statesmen and heroes, the order of the garter; the order which was founded by the heroes of Cressy and Poictiers; the garter which was worn by Henry the Great, and by Gustavus Adolphus, which might now be worn by the hero, who on the shores of Syria, the ancient theatre of English chivalry, has revived the renown of English valor and of English humanity; that unsullied garter, which a detestable libeller dares to say is to be paid as the price of murder.

If I had now to defend an English publisher for the republication of that abominable libel, what must I have said in his defence? I must have told you that it was originally published by the French government in their official gazette; that it was republished by the English editor to gratify the natural curiosity, perhaps to rouse the just resentment of his English readers. I should have contended, and, I trust, with success, that his republication of a libel was not libellous; that it was lawful, that it was laudable. All that would be important, at least all that would be essential in such a defence, I now state to you on behalf of Mr. Peltier; and if an English newspaper may safely republish the libels of the French government against his majesty, I shall leave you to judge whether Mr. Peltier, in similar circumstances, may not, with equal safety, republish the libels of Chenier against the first consul. On the one hand, you have the assurances of Mr. Peltier in the context that this ode is merely a republication—you have also the general plan of his work, with which such a republication is perfectly consistent. On the other hand, you have only the suspicions of Mr. Attorney General that this ode is an original production of the defendant.

But supposing that you should think it his production, and that you should also think it a libel—even in that event, which I cannot anticipate, I am not left without a defence. The question will still be open, "Is it a libel on Buonaparte, or is it

a libel on Chenier or Ginguené." This is not an information for a libel on Chenier; and if you should think that this ode was produced by Mr. Peltier, and ascribed by him to Chenier for the sake of covering that writer with the odium of jacobinism, the defendant is entitled to your verdict of not guilty. Or if you should believe that it is ascribed to jacobinical writers for the sake of satirizing a French jacobinical faction, you must also in that case acquit him. Butler puts seditious and immoral language into the mouth of rebels and fanatics; but Hudibras is not for that reason a libel on morality or government. Swift, in the most exquisite piece of irony in the world (his argument against the abolition of Christianity) uses the language of those shallow, atheistical coxcombs whom his satire was intended to scourge. The scheme of his irony required some levity and even some profaneness of language. But nobody was ever so dull as to doubt whether Swift meant to satirize atheism or religion. In the same manner Mr. Peltier, when he wrote a satire on French jacobinism, was compelled to ascribe to jacobins a jacobinical hatred of government. He was obliged by dramatic propriety, to put into their mouths those anarchical maxims which are complained of in his ode. But it will be said, these incitements to insurrection are here directed against the authority of Buonaparte. This proves nothing, because they must have been so directed, if the ode were a satire on jacobinism. French jacobins must inveigh against Buonaparte, because he exercises the powers of government. The satirist who attacks them must transcribe their sentiments, and adopt their language.

I do not mean to say, gentlemen, that Mr. Peltier feels any affection, or professes any allegiance to Buonaparte. If I were to say so, he would disown me. He would disdain to purchase an acquittal by the profession of sentiments which he disclaims and abhors. Not to love Buonaparte is no crime. The question is not whether Mr. Peltier loves or hates the first consul, but whether he has put revolutionary language into the mouths of jacobins, with a view to paint their incorrigible turbulence, and to exhibit the fruits of jacobinical revolutions to the detestation of mankind.

Now, gentlemen, we cannot give a probable answer to this question without previously examining two or three questions on which the answer to the first must very much depend. Is there a faction in France which breathes the spirit, and is likely to employ the language of this ode? Does it perfectly accord with their character and views? Is it utterly irreconcilable with the feelings, opinions, and wishes of Mr. Peltier? If these questions can be answered in the affirmative, then I think you

must agree with me, that Mr. Peltier does not in this ode speak his own sentiments, that he does not here vent his own resentment against Buonaparte; but that he personates a jacobin, and adopts his language for the sake of satirizing his principles.

These questions, gentlemen, lead me to those political discussions, which, generally speaking, are in a court of justice odious and disgusting. Here, however, they are necessary, and I shall consider them only as far as the necessities of this cause require.

Gentlemen, the French revolution—I must pause, after I have uttered words which present such an overwhelming idea. —But I have not now to engage in an enterprise so far beyond my force as that of examining and judging that tremendous revolution. I have only to consider the character of the factions which it must have left behind it.

The French revolution began with great and fatal errors. These errors produced atrocious crimes. A mild and feeble monarchy was succeeded by bloody anarchy, which very shortly gave birth to military despotism. France, in a few years, described the whole circle of human society.

All this was in the order of nature. When every principle of authority and civil discipline, when every principle which enables some men to command and disposes others to obey, was extirpated from the mind by atrocious theories, and still more atrocious examples; when every old institution was trampled down with contumely, and every new institution covered in its cradle with blood; when the principle of property itself, the sheet-anchor of society, was annihilated; when in the persons of the new possessors, whom the poverty of language obliges us to call proprietors, it was contaminated in its source by robbery and murder, and it became separated from that education and those manners, from that general presumption of superior knowledge and more scrupulous probity which form its only liberal titles to respect; when the people were taught to despise everything old, and compelled to detest everything new; there remained only one principle strong enough to hold society together, a principle utterly incompatible, indeed, with liberty, and unfriendly to civilization itself, a tyrannical and barbarous principle; but, in that miserable condition of human affairs, a refuge from still more intolerable evils. I mean the principle of military power, which gains strength from that confusion and bloodshed in which all the other elements of society are dissolved, and which, in these terrible extremities, is the cement that preserves it from total destruction.

Under such circumstances, Buonaparte usurped the supreme power in France. I say *usurped*, because an illegal assumption

of power is a usurpation. But usurpation, in its strongest moral sense, is scarcely applicable to a period of lawless and savage anarchy. The guilt of military usurpation, in truth, belongs to the author of those confusions which sooner or later give birth to such a usurpation.

Thus, to use the words of the historian; "by recent as well as all ancient example, it became evident that illegal violence, with whatever pretences it may be covered, and whatever object it may pursue, must inevitably end at last in the arbitrary and despotic government of a single person." But though the government of Buonaparte has silenced the revolutionary factions, it has not and it cannot have extinguished them. No human power could reimpress upon the minds of men all those sentiments and opinions which the sophistry and anarchy of fourteen years had obliterated. A faction must exist, which breathes the spirit of the ode now before you.

It is, I know, not the spirit of the quiet and submissive majority of the French people. They have always rather suffered, than acted, in the revolution. Completely exhausted by the calamities through which they have passed, they yield to any power which gives them repose. There is, indeed, a degree of oppression which rouses men to resistance; but there is another and a greater, which wholly subdues and unmans them. It is remarkable that Robespierre himself was safe, till he attacked his own accomplices. The spirit of men of virtue was broken, and there was no vigor of character left to destroy him, but in those daring ruffians who were the sharers of his tyranny.

As for the wretched populace who were made the blind and senseless instrument of so many crimes, whose frenzy can now be reviewed by a good mind with scarce any moral sentiment but that of compassion; that miserable multitude of beings, scarcely human, have already fallen into a brutish forgetfulness of the very atrocities which they themselves perpetrated. They have already forgotten all the acts of their drunken fury. If you ask one of them, who destroyed that magnificent monument of religion and art? or who perpetrated that massacre? They stupidly answer, the jacobins! though he who gives the answer was probably one of these jacobins himself; so that a traveller, ignorant of French history, might suppose the jacobins to be the name of some Tartar horde, who, after laying waste France for ten years, were at last expelled by the native inhabitants. They have passed from senseless rage to stupid quiet. Their delirium is followed by lethargy.

In a word, gentlemen, the great body of the people of France have been severely trained in those convulsions and proscrip-

ions which are the school of slavery. They are capable of no mutinous, and even of no bold and manly political sentiments And if this ode professed to paint their opinions, it would be a most unfaithful picture. But it is otherwise with those who have been the actors and leaders in the scene of blood. It is otherwise with the numerous agents of the most indefatigable, searching, multiform and omnipresent tyranny that ever existed, which pervaded every class of society, which had ministers and victims in every village in France.

Some of them, indeed, the basest of the race, the sophists, the rhetors, the poet-laureates of murder, who were cruel only from cowardice and calculating selfishness, are perfectly willing to transfer their venal pens to any government that does not disdain their infamous support. These men, republicans from servility, who published rhetorical panegyrics on massacre, and who reduced plunder to a system of ethics, are as ready to preach slavery as anarchy. But the more daring, I had almost said the more respectable, ruffians cannot so easily bend their heads under the yoke. These fierce spirits have not lost "the unconquerable will, the study of revenge, immortal hate." They leave the luxuries of servitude to the mean and dastardly hypocrites, to the Belials and Mammons of the infernal faction. They pursue their old end of tyranny under their old pretext of liberty. The recollection of their unbounded power renders every inferior condition irksome and vapid, and their former atrocities form, if I may so speak, a sort of moral destiny which irresistibly impels them to the perpetration of new crimes. They have no place left for penitence on earth. They labor under the most awful proscription of opinion that ever was pronounced against human beings. They have cut down every bridge by which they could retreat into the society of men. Awakened from their dreams of democracy, the noise subsided that deafened their ears to the voice of humanity; the film fallen from their eyes which hid from them the blackness of their own deeds; haunted by the memory of their inexpiable guilt; condemned daily to look on the faces of those whom their hands made widows and orphans, they are goaded and scourged by these real furies, and hurried into the tumult of new crimes, which will drown the cries of remorse, or if they be too depraved for remorse, will silence the curses of mankind. Tyrannical power is their only refuge from the just vengeance of their fellow-creatures. Murder is their only means of usurping power. They have no taste, no occupation, no pursuit but power and blood. If their hands are tied, they must at least have the luxury of murderous projects. They

have drunk too deeply of human blood ever to relinquish their cannibal appetite.

Such a faction exists in France. It is numerous; it is powerful; and it has a principle of fidelity stronger than any that ever held together a society. They are banded together by despair of forgiveness, by the unanimous detestation of mankind. They are now restrained by a severe and stern government. But they still meditate the renewal of insurrection and massacre; and they are prepared to renew the worst and most atrocious of their crimes, that crime against posterity and against human nature itself, that crime of which the latest generations of mankind may feel the fatal consequences—the crime of degrading and prostituting the sacred name of liberty.

I must own, that however paradoxical it may appear, I should almost think not worse, but more meanly of them if it were otherwise. I must then think them destitute of that which I will not call courage, because that is the name of a virtue; but of that ferocious energy which alone rescues ruffians from contempt. If they were destitute of that which is the heroism of murderers, they would be the lowest as well as the most abominable of beings.

It is impossible to conceive anything more despicable than wretches who, after hectoring and bullying over their meek and blameless sovereign, and his defenceless family, whom they kept so long in a dungeon trembling for their existence, whom they put to death by a slow torture of three years, after playing the republican and the tyrannicide to women and children, become the supple and fawning slaves of the first government that knows how to wield the scourge with a firm hand.

I have used the word republican because it is the name by which this atrocious faction describes itself. The assumption of that name is one of their crimes. They are no more republicans than royalists. They are the common enemies of all human society. God forbid, that by the use of that word, I should be supposed to reflect on the members of those respectable republican communities which did exist in Europe before the French revolution. That revolution has spared many monarchies, but it has spared no republic within the sphere of its destructive energy. One republic only now exists in the world—a republic of English blood, which was originally composed of republican societies, under the protection of a monarchy, which had therefore no great and perilous change in their internal constitution to effect, and of which, I speak it with pleasure and pride, the inhabitants even in the convulsions of a most deplorable separation, displayed the humanity as

well as valor, which, I trust I may say they inherited from their forefathers.

Nor do I mean by the use of the word "republican," to confound this execrable faction with all those who, in the liberty of private speculation, may prefer a republican form of government. I own, that after much reflection, I am not able to conceive an error more gross than that of those who believe in the possibility of erecting a republic in any of the old monarchical countries of Europe, who believe that in such countries an elective supreme magistracy can produce anything but a succession of stern tyrannies and bloody civil wars. It is a supposition which is belied by all experience, and which betrays the greatest ignorance of the first principles of the constitution of society. It is an error which has a false appearance of superiority over vulgar prejudice; it is therefore too apt to be attended with the most criminal rashness and presumption, and too easy to be inflamed into the most immoral and antisocial fanaticism. But as long as it remains a mere quiescent error, it is not the proper subject of moral disapprobation.

If then, gentlemen, such a faction, falsely calling itself republican, exists in France, let us consider whether this ode speaks their sentiments, describes their character, agrees with their views. Trying it by the principle I have stated, I think you will have no difficulty in concluding, that it is agreeable to the general plan of this publication, to give an historical and satirical view of the Brutuses and brutes of the republic—of those who assumed and disgraced the name of Brutus, and who, under that name, sat as judges in their mock tribunals with pistols in their girdles, to anticipate the office of the executioner on those unfortunate men whom they treated as rebels, for resistance to Robespierre and Couthon.

I now come to show you that this ode cannot represent the opinions of Mr. Peltier. He is a French royalist. He has devoted his talents to the cause of his King.—For that cause he has sacrificed his fortune and hazarded his life. For that cause he is proscribed and exiled from his country. I could easily conceive powerful topics of royalist invective against Buonaparte; and if Mr. Peltier had called upon Frenchmen by the memory of St. Louis and Henry the Great, by the memory of that illustrious family which reigned over them for seven centuries, and with whom all their martial renown and literary glory are so closely connected; if he had adjured them by the spotless name of that Louis XVI. the martyr of his love for his people, which scarce a man in France can now pronounce but in the tone of pity and veneration; if he had *thus*

called upon them to change their useless regret and their barren pity into generous and active indignation; if he had reproached the conquerors of Europe with the disgrace of being the slaves of an upstart stranger; if he had brought before their minds the contrast between their country under her ancient monarch, the source and model of refinement in manners and taste, and since their expulsion the scourge and the opprobrium of humanity; if he had exhorted them to drive out their ignoble tyrants, and to restore their native sovereign; I should then have recognized the voice of a royalist. I should have recognized language that must have flowed from the heart of Mr. Peltier, and I should have been compelled to acknowledge that it was pointed against Buonaparte.

These, or such as these, must have been the topics of a royalist, if he had published an invective against the first consul. But instead of these, or similar topics, what have we in this ode? On the supposition that it is the invective of a royalist, how is it to be reconciled to common sense? What purpose is it to serve? To whom is it addressed? To what interests does it appeal? What passions is it to rouse? If it be addressed to royalists, then I request, gentlemen, that you will carefully read it, and tell me whether on that supposition it can be anything but the ravings of insanity, and whether a commission of lunacy be not a proceeding more fitted to the author's case, than a conviction for a libel. On that supposition I ask you whether it does not amount, in substance, to such an address as the following? "Frenchmen, royalists, I do not call upon you to avenge the murder of your innocent sovereign, the butchery of your relations and friends, the disgrace and oppression of your country! I call upon you by the hereditary right of Barras, transmitted through a long series of ages, by the beneficent government of Merlin and Reubel, those worthy successors of Charlemagne, whose authority was as mild as it was lawful—I call upon you to revenge on Buonaparte the despotism of that Directory who condemned the far greater part of yourselves to beggary and exile, who covered France with Bastiles and scaffolds; who doomed the most respectable remaining members of their community, the Pichegrues, the Barbe Marbois, the Barthelemis, to a lingering death in the pestilential wilds of Guiana—I call upon you to avenge on Buonaparte the cause of those councils of five hundred, or of two hundred, of elders or of youngsters, those disgusting and nauseous mockeries of representative assemblies; those miserable councils which sycophant sophists had converted into machines for fabricating decrees of proscription and confiscation, which not only proscribed unborn thousands, but, by a

refinement and innovation in rapine, visited the sins of the children upon the fathers and beggared parents, not for the offences but for the misfortunes of their sons. I call upon you to restore this Directory and these Councils, and all this horrible profanation of the name of a republic, and to punish those who delivered you from them. I exhort you to reverence the den of these banditti as "*the sanctuary of the laws*," and to lament the day in which this intolerable nuisance was abated as "*an unfortunate day.*" Last of all, I exhort you once more to follow that deplorable chimera—the first lure that led you to destruction—the sovereignty of the people—though I know, and you have bitterly felt, that you never were so much slaves, in fact, as since you have been sovereigns in theory!"

Let me ask Mr. Attorney General, whether, upon his suppo sition, I have not given you a faithful translation of this ode; and I think I may safely repeat, that if this be the language of a royalist addressed to royalists, it must be the production of a lunatic. But on my supposition, everything is natural and consistent. You have the sentiments and language of a jacobin.—It is therefore probable, if you take it as an historical republication of a jacobin piece—It is just, if you take it as a satirical representation of jacobin opinions and projects.

Perhaps it will be said, that this is the production of a royalist writer, who assumes a republican disguise to serve royalist purposes; but if my learned friend chooses that supposition, I think an equal absurdity returns upon him in another shape. We must then suppose it to be intended to excite republican discontent and insurrection against Buonaparte. It must then be taken as addressed to republicans.—Would Mr. Peltier, in that case, have disclosed his name as the publisher? Would he not much rather have circulated the ode in the name of Chenier, without prefixing his own, which was more than sufficient to warn his jacobinical readers against all his counsels and exhortations? If he had circulated it under the name of Chenier only, he would indeed have hung out republican colors; but by prefixing his own, he appears without disguise. You must suppose him then to say: "Republicans! I, your mortal enemy for fourteen years, whom you have robbed of his all, whom you have forbidden to revisit his country under pain of death, who from the beginning of the revolution unceasingly poured ridicule upon your follies, and exposed your crimes to detestation, who in the case of my unhappy sovereign braved your daggers for three years, and who escaped almost by miracle from your assassins in September, who has since been constantly employed in warning other nations by your example, and in collecting the evidence upon which history will pro-

nounce your condemnation; I who at this moment deliberately choose exile and honorable poverty, rather than give the slightest mark of external compliance with your abominable institutions; I your most irreconcilable and indefatigable enemy, offer you counsel which you know can only be a snare into which I expect you to fall, though by the mere publication of my name I have sufficiently forewarned you that I can have no aim but that of your destruction."

I ask you again, gentlemen, is this common sense? Is it not as clear from the name of the author that it is not addressed to jacobins, as from the contents of the publication that it is not addressed to royalists? It may be the genuine work of Chenier, for the topics are such as he would employ. It may be a satire on jacobinism; for the language is well adapted to such a composition—But it cannot be a royalist's invective against Buonaparte, intended by him to stir up either royalists or republicans to the destruction of the first consul.

I cannot conceive it to be necessary that I should minutely examine this poem to confirm my construction. There are one or two passages on which I shall make a few observations. The first is the contrast between the state of England and that of France, of which an ingenious friend has favored me with a translation, which I shall take the liberty of reading to you.

Her glorious fabric England rears
On law's fix'd base alone;
Law's guardian pow'r while each reveres,
England! thy people's freedom fears
No danger from the throne.

For there, before almighty law,
High birth, high place, with pious awe,
In reverend homage bend:
There man's free spirit, unconstrain'd
Exults, in man's best rights maintain'd,
Rights which, by ancient valor gain'd,
From age to age descend.

Britons, by no base fear dismay'd,
May power's worst acts arraign.
Does tyrant force their rights invade?
They call on law's impartial aid,
Nor call that aid in vain.

Hence, of her sacred charter proud,
With every earthly good endow'd,
O'er subject seas unfurl'd,
Britannia waves her standard wide,
Hence, seas her freighted navies ride
Up wealthy Thames' majestic tide,
The wonder of the world.

Here at first sight, you may perhaps think that the consistency of the jacobin character is not supported, that the republican disguise is thrown off, that the royalist stands unmasked before you; but, on more consideration, you will find that such an inference would be too hasty. The leaders of the revolution are now reduced to envy that British constitution which, in the infatuation of their presumptuous ignorance, they once rejected with scorn. They are now slaves, as they themselves confess, because twelve years ago they did not believe Englishmen to be free. They cannot but see that England is the only popular government in Europe; and they are compelled to pay a reluctant homage to the justice of English principles. The praise of England is too striking a satire on their own government to escape them; and I may accordingly venture to appeal to all those who know anything of the political circles of Paris, whether such contrasts between France and England as that which I have read to you be not the most favorite topics of the opponents of Buonaparte.—But in the very next stanza,

> Cependant, encore affligée
> Par l'odieuse hérédité,
> Londres de titres surchargée,
> Londres n'a pas *l'Egalité*.

You see, that though they are forced to surrender an unwilling tribute to our liberty, they cannot yet renounce all their fantastic and deplorable chimeras. They endeavor to make a compromise between the experience on which they cannot shut their eyes, and the wretched systems to which they still cling. Fanaticism is the most incurable of all mental diseases; because in all its forms, religious, philosophical, or political, it is distinguished by a sort of mad contempt for experience, which alone can correct the errors of practical judgment. And these democratical fanatics still speak of the odious principle of "hereditary government." They still complain that we have not "*equality*." They know not that this odious principle of inheritance is our bulwark against tyranny; that if we had their pretended equality, we should soon cease to be the objects of their envy. These are the sentiments which you would naturally expect from half-cured lunatics. But once more I ask you, whether they can be the sentiments of M. Peltier? Would he complain that we have too much monarchy, or too much of what they call aristocracy? If he has any prejudices against the English government, must they not be of an entirely opposite kind?

I have only one observation more to make on this poem. It relates to the passage which is supposed to be an incitement to

assassination. In my way of considering the subject, M. Peltier is not answerable for that passage, whatever its demerits may be. It is put into the mouth of a jacobin; and it will not, I think, be affirmed, that if it were an incitement to assassinate, it would be very unsuitable to his character. Experience, and very recent experience, has abundantly proved how widely the French revolution has blackened men's imaginations, what a daring and desperate cast it has given to their characters, how much it has made them regard the most extravagant projects of guilt as easy and ordinary expedients; and to what a horrible extent it has familiarized their minds to crimes which before were only known among civilized nations by the history of barbarous times, or as the subject of poetical fiction. But, thank God, gentlemen, we in England have not learned to charge any man with inciting assassination, not even a member of that atrocious sect who have revived political assassination in Christendom, except when we are compelled to do so by irresistible evidence. Where is that evidence here? In general it is immoral because indecent to speak with levity, still more to anticipate with pleasure, the destruction of any human being. But between this immorality and the horrible crime of inciting to assassination, there is a wide interval indeed. The real or supposed author of this ode gives you to understand that he would hear with no great sorrow of the destruction of the first consul. But surely the publication of that sentiment is very different from an exhortation to assassinate.

But, says my learned friend, why is the example of Brutus celebrated? Why are the French reproached with their baseness in not copying that example? Gentlemen, I have no judgment to give on the act of Marcus Brutus. I rejoice that I have not. I should not dare to condemn the acts of brave and virtuous men in extraordinary and terrible circumstances, and which have been, as it were, consecrated by the veneration of so many ages. Still less should I dare to weaken the authority of the most sacred rules of duty, by praises which would be immoral even if the acts themselves were in some measure justified by the awful circumstances under which they were done. I am not the panegyrist of "those instances of doubtful public spirit at which morality is perplexed, reason is staggered, and from which affrighted nature recoils."

But whatever we may think of the act of Brutus, surely my learned friend will not contend that every allusion to it, every panegyric on it, which has appeared for eighteen centuries, in prose and verse, is an incitement to assassination. From the *conspicuæ divina Philippica famæ* down to the last schoolboy declamation, he will find scarce a work of literature without

such allusions, and not very many without such panegyrics. I must say that he has construed this ode more like an attorney general than a critic in poetry. According to his construction, almost every fine writer in our language is a preacher of murder.

Having said so much on the first of these supposed libels, I shall be very short on the two that remain—the verses ascribed to a Dutch patriot and the parody of the speech of Lepidus. In the first of these, the piercing eye of Mr. Attorney General has again discovered an incitement to assassinate—the most learned incitement to assassinate that ever was addressed to such ignorant ruffians as are most likely to be employed for such nefarious purposes! An obscure allusion, to an obscure and perhaps fabulous part of Roman history, to the supposed murder of Romulus, about which none of us know anything, and of which the jacobins of Paris and Amsterdam probably never heard. But the *apotheosis!* Here my learned friend has a little forgotten himself. He seems to argue as if apotheosis always presupposed death. But he must know that Augustus and even Tiberius and Nero were deified during their lives, and he cannot have forgotten the terms in which one of the court poets of Augustus speaks of his master's divinity—

——Præsens divus habebitur
Augustus adjectis Britannis
Imperio.—

If any modern rival of Augustus should choose that path to Olympus, I think he will find it more steep and rugged than that by which Pollux and Hercules climbed to the ethereal towers, and that he must be content with purpling his lips with Burgundy on earth, as he has very little chance of purpling them with nectar among the gods.

The utmost that can seriously be made of this passage is, that it is a wish for a man's death. I repeat that I do not contend for the decency of publicly declaring such wishes, or even for the propriety of entertaining them: but the distance between such a wish and a persuasive to murder, is immense. Such a wish for a man's death is very often little more than a strong, though, I admit, not a very decent way of expressing detestation for his character.

But without pursuing this argument any further, I think myself entitled to apply to these verses the same reasoning which I have already applied to the first supposed libel on Buonaparte. If they be the real composition of a pretended Dutch patriot, Mr. Peltier may republish them innocently. If they be a satire on such pretended Dutch patriots, they are not a libel on Buo-

naparte. Granting, for the sake of argument, that they did entertain a serious exhortation to assassinate, is there anything in such an exhortation inconsistent with the character of these pretended patriots?

They who were disaffected to the mild and tolerant government of their flourishing country, because it did not exactly square with all their theoretical whimsies; they who revolted from that administration as tyrannical, which made Holland one of the wonders of the world for protected industry, for liberty of action and opinion, and for a prosperity which I may venture to call the greatest victory of man over hostile elements; they who call in the aid of the fiercest tyrants that Europe ever saw, who served in the armies of Robespierre, under the impudent pretext of giving liberty to their country, and who have, finally, buried in the same grave its liberty, its independence, and perhaps its national existence, they are not men entitled to much tenderness from a political satirist, and he will scarcely violate dramatic propriety if he impute to them any language, however criminal and detestable. They who could not brook the authority of their old, lazy, good-natured government, are not likely to endure with patience the yoke of that stern domination which they have brought upon themselves, and which, as far as relates to them, is only the just punishment of their crimes. They who call in tyrants to establish liberty, who sacrifice the independence of their country under pretence of reforming its internal constitution, are capable of everything.

I know nothing more odious than their character, unless it be that of those who invoke the aid of the oppressors of Switzerland to be the deliverers of Ireland! Their guilt has, indeed, peculiar aggravations. In the name of liberty they were willing to surrender their country into the hands of tyrants, the most lawless, faithless, and merciless that ever scourged Europe; who, at the very moment of their negotiation, were covered with the blood of the unhappy Swiss, the martyrs of real independence and of real liberty. Their success would have been the destruction of the only free community remaining in Europe—of England, the only bulwark of the remains of European independence. Their means were the passions of an ignorant and barbarous peasantry, and a civil war, which could not fail to produce all the horrible crimes and horrible retaliations of the last calamity that can befall society—a servile revolt. They sought the worst of ends by the most abominable of means. They labored for the subjugation of the world, at the expense of crimes and miseries which men of humanity and conscience would have thought too great a price for the deliverance of mankind.

The last of these supposed libels, is the parody on the speech of Lepidus, in the fragments of Sallust. It is certainly a very ingenious and happy parody of an original, attended with some historical obscurity and difficulty, which it is no part of our present business to examine. This parody is said to have been clandestinely placed among the papers of one of the most amiable and respectable men in France, M. Camille Jordan, in order to furnish a pretext for involving that excellent person in a charge of conspiracy. This is said to have been done by a spy of Fouché. Now, gentlemen, I take this to be a satire on Fouché, on his manufacture of plots—on his contrivances for the destruction of innocent and virtuous men—and I shall admit it to be a libel on Fouché if it were possible to libel him. I own that I should like to see Fouché appear as a plaintiff, seeking reparation for his injured character, before any tribunal safe from his fangs, where he had not the power of sending the judges to Guiana or Madagascar. It happens that we know something of the history of Mr. Fouché from a very credible witness against him—from himself. You will perhaps excuse me for reading to you some passages of his letters in the year 1793, from which you will judge, whether any satire can be so severe as the portrait he draws of himself.

"Convinced that there are no innocent men in this infamous city, but those who are oppressed and loaded with irons by the assassins of the people, we are on our guard against the *tears of repentance!* nothing can disarm our severity. They have not yet dared to solicit the repeal of our first decree for the *annihilation of the city of Lyons!* but scarcely anything has yet been done to carry it into execution." (Pathetic!) "The demolitions are too slow. More rapid means are necessary to republican impatience. The explosion of the mine, and the devouring activity of the flames, can alone adequately represent the omnipotence of the people." (Unhappy populace, always the pretext, the instrument, and the victim of political crimes!) Their will cannot be checked like that of tyrants. It ought to have the effects of thunder!" The next specimen of this worthy gentleman which I shall give, is in a speech to the Jacobin Club of Paris, on the 21st of December, 1793, by his worthy colleague in the mission to Lyons, Collot d'Herbois:

"We are accused" (you, gentlemen, will soon see how unjustly) "of being cannibals, men of blood: but it is in counter-revolutionary petitions, hawked about for signature by aristocrats, that this charge is made against us. They examine with the most scrupulous attention how the counter-revolutionists are put to death, and they affect to say, that they are not killed at one stroke." (He speaks for himself and his

colleague Fouché, and one would suppose that he was going to deny the fact—but nothing like it.) "Ah! Jacobins, did Chalier die at the first stroke, &c.? A drop of blood poured from generous veins goes to my heart," (humane creature!) "but I have no pity for conspirators. (He however proceeds to state a most undeniable proof of his compassion.) We caused two hundred to be shot at once, and it is charged upon us as a crime!" (Astonishing! that such an act of humanity should be called a crime!) "They do not know that it is a proof of our sensibility! When twenty criminals are guillotined, the last of them dies twenty deaths: but these two hundred conspirators perished at once. They speak of sensibility, *we also are full of sensibility!* The *Jacobins have all the virtues!* They are *compassionate, humane, generous!*" (This is somewhat hard to be understood, but it is perfectly explained by what follows.) "But they reserve these sentiments for the patriots who are their brethren, which the aristocrats never will be."

The only remaining document with which I shall trouble you, is a letter from Fouché to his amiable colleague Collot d'Herbois, which, as might be expected in a confidential communication, breathes all the native tenderness of his soul. "Let us be *terrible*, that we may run no risk of being feeble or *cruel*. Let us annihilate in our wrath, at a single blow, all rebels, all conspirators, all traitors," (comprehensive words in his vocabulary) "to spare ourselves the pain, the long agony, of punishing like kings!" (Nothing but philanthropy in this worthy man's heart.) "Let us exercise justice after the example of nature. Let us avenge ourselves like a people. Let us strike like the thunderbolt; and let even the ashes of our enemies disappear from the soil of liberty! Let the perfidious and ferocious English be attacked from every side. Let the whole republic form a volcano to pour devouring lava upon them. May the infamous island which produced these monsters, who no longer belong to humanity, be for ever buried under the waves of the ocean! "Farewell, my friend! Tears of joy stream from my eyes," (we shall soon see for what) "they deluge my soul."

[Then follows a little postscript, which explains the cause of this excessive joy, so hyperbolical in its language, and which fully justifies the indignation of the humane writer against the "ferocious English," who are so stupid and so cruel as never to have thought of a benevolent massacre, by way of sparing themselves the pain of punishing individual criminals.]

"*We have only one way of celebrating victories.—We send this evening two hundred and thirteen rebels to be shot!*"

Such, gentlemen, is M. Fouché, who is said to have procured this parody to be mixed with the papers of my excellent

friend, Camille Jordan, to serve as a pretext for his destruction Fabricated plots are among the most usual means of such tyrants for such purposes; and if Mr. Peltier intended to libel (shall I say?) Fouché by this composition, I can easily understand both the parody and the history of its origin. But if it be directed against Buonaparte to serve royalist purposes, I must confess myself wholly unable to conceive why Mr. Peltier should have stigmatized his work and deprived it of all authority and power of persuasion, by prefixing to it the infamous name of Fouché.

On the same principle, I think one of the observations of my learned friend, on the title of this publication, may be retorted on him. He has called your attention to the title "L'Ambigu, ou Variétés atroces et amusantes." Now, gentlemen, I must ask, whether, had these been Mr. Peltier's own invectives against Buonaparte he would himself have branded them as "atrocious!"—But if they be specimens of the opinions and invectives of a French faction, the title is very natural, and the epithets are perfectly intelligible. Indeed I scarce know a more appropriate title for the whole tragic comedy of the revolution than that of "atrocious and amusing varieties."

My learned friend has made some observations on other parts of this publication, to show the spirit which animates the author; but they do not seem to be very material to the question between us. It is no part of my case that Mr. Peltier has spoken with some unpoliteness, with some flippancy, with more severity than my learned friend may approve, of factions and of administrations in France. Mr. Peltier cannot love the revolution, or any government that has grown out of it and maintains it. The revolutionists have destroyed his family, they have seized his inheritance, they have beggared, exiled, and proscribed himself. If he did not detest them he would be unworthy of living, and he would be a base hypocrite if he were to conceal his sentiments. But I must again remind you, that this is not an information for not sufficiently honoring the French revolution, for not showing sufficient reverence for the consular government. These are no crimes among us. England is not yet reduced to such an ignominious dependence. Our hearts and consciences are not yet in the bonds of so wretched a slavery. This is an information for a libel on Buonaparte, and if you believe the principal intention of Mr. Peltier to have been to republish the writings or to satirize the character of other individuals, you must acquit him of a libel on the first consul.

Here, gentlemen, I think I might stop, if I had only to consider the defence of Mr. Peltier. I trust that you are already

convinced of his innocence. I fear I have exhausted your patience, as I am sure I have very nearly exhausted my own strength. But so much seems to me to depend on your verdict, that I cannot forbear from laying before you some considerations of a more general nature.

Believing as I do, that we are on the eve of a great struggle; that this is only the first battle between reason and power; that you have now in your hands, committed to your trust, the only remains of free discussion in Europe, now confined to this kingdom; addressing you, therefore, as the guardians of the most important interests of mankind; convinced that the unfettered exercise of reason depends more on your present verdict than on any other that was ever delivered by a jury, I cannot conclude without bringing before you the sentiments and examples of our ancestors in some of those awful and perilous situations by which Divine Providence has in former ages tried the virtue of the English nation. We are fallen upon times in which it behoves us to strengthen our spirits by the contemplation of great examples of constancy. Let us seek for them in the annals of our forefathers.

The reign of queen Elizabeth may be considered as the opening of the modern history of England, especially in its connexion with the modern system of Europe, which began about that time to assume the form that it preserved till the French revolution. It was a very memorable period, of which the maxims ought to be engraven on the head and heart of every Englishman. Philip II., at the head of the greatest empire then in the world, was openly aiming at universal domination, and his project was so far from being thought chimerical by the wisest of his contemporaries, that in the opinion of the great *Duc de Sully* he must have been successful, "if, by a most singular combination of circumstances, he had not at the same time been resisted by two such strong heads as those of Henry IV. and queen Elizabeth." To the most extensive and opulent dominions, the most numerous and disciplined armies, the most renowned captains, the greatest revenue, he added also the most formidable power over opinion. He was the chief of a religious faction, animated by the most atrocious fanaticism, prepared to second his ambition, by rebellion, anarchy, and regicide, in every Protestant state. Elizabeth was among the first objects of his hostility. That wise and magnanimous princess placed herself in the front of the battle for the liberties of Europe. Though she had to contend at home with his fanatical faction, which almost occupied Ireland, which divided Scotland, and was not of contemptible strength in England, she aided the oppressed inhabitants of the Nether-

ands in their just and glorious resistance to his tyranny; she aided Henry the Great, in suppressing the abominable rebellion which anarchical principles had excited and Spanish arms had supported in France, and after a long reign of various fortune, in which she preserved her unconquered spirit through great calamities, and still greater dangers, she at length broke the strength of the enemy, and reduced his power within such limits as to be compatible with the safety of England, and of all Europe. Her only effectual ally was the spirit of her people, and her policy flowed from that magnanimous nature which in the hour of peril teaches better lessons than those of cold reason. Her great heart inspired her with a higher and a nobler wisdom—which disdained to appeal to the low and sordid passions of her people, even for the protection of their low and sordid interests, because she knew, or rather she felt, that these are effeminate, creeping, cowardly, short-sighted passions, which shrink from conflict even in defence of their own mean objects. In a righteous cause she roused those generous affections of her people which alone teach boldness, constancy, and foresight, and which are therefore the only safe guardians of the lowest as well as the highest interests of a nation. In her memorable address to her army, when the invasion of the kingdom was threatened by Spain, this woman of heroic spirit disdained to speak to them of their ease and their commerce, and their wealth, and their safety. No! She touched another chord—She spoke of their national honor, of their dignity as Englishmen, of "the foul scorn that Parma or Spain *should dare* to invade the borders of her realms." She breathed into them those grand and powerful sentiments which exalt vulgar men into heroes, which lead them into the battle of their country, armed with holy and irresistible enthusiasm; which even cover with their shield all the ignoble interests that base calculation and cowardly selfishness tremble to hazard, but shrink from defending. A sort of prophetic instinct, if I may so speak, seems to have revealed to her the importance of that great instrument for rousing and guiding the minds of men, of the effects of which she had no experience; which, since her time, has changed the condition of the world; but which few modern statesmen have thoroughly understood or wisely employed; which is no doubt connected with many ridiculous and degrading details, which has produced, and which may again produce, terrible mischiefs; but of which the influence must after all be considered as the most certain effect and the most efficacious cause of civilization, and which, whether it be a blessing or a curse, is the most powerful engine that a politician can move—I mean the press. It is a curious fact,

that in the year of the Armada, queen Elizabeth caused to be printed the first gazettes that ever appeared in England; and I own, when I consider that this mode of rousing a national spirit was then absolutely unexampled, that she could have no assurance of its efficacy from the precedents of former times, I am disposed to regard her having recourse to it as one of the most sagacious experiments, one of the greatest discoveries of political genius, one of the most striking anticipations of future experience, that we find in history. I mention it to you, to justify the opinion that I have ventured to state, of the close connexion of our national spirit with our press, even our periodical press. I cannot quit the reign of Elizabeth, without laying before you the maxims of her policy, in the language of the greatest and wisest of men.—Lord Bacon, in one part of his discourse on her reign, speaks thus of her support of Holland; "But let me rest upon the honorable and continual aid and relief she hath given to the distressed and desolate people of the Low Countries; a people recommended unto her by ancient confederacy and daily intercourse, by their cause so innocent, and their fortune so lamentable!" In another passage of the same discourse, he thus speaks of the general system of her foreign policy; as the protector of Europe, in words too remarkable to require any commentary. "Then it is her government, and her government alone, that hath been the sconce and fort of all Europe, which hath lett this proud nation from overrunning all. If any state be yet free from his factions erected in the bowels thereof; if there be any state wherein this faction is erected that is not yet fired with civil troubles: if there be any state under his protection that enjoyeth moderate liberty, upon whom he tyrannizeth not; it is the mercy of this renowned queen that standeth between them and their misfortunes!"

The next great conspirator against the rights of men and of nations, against the security and independence of all European states, against every kind and degree of civil and religious liberty, was Louis XIV. In his time the character of the English nation was the more remarkably displayed, because it was counteracted by an apostate and perfidious government. During great part of his reign, you know that the throne of England was filled by princes who deserted the cause of their country and of Europe, who were the accomplices and the tools of the oppressor of the world; who were even so unmanly, so unprincely, so base, as to have sold themselves to his ambition; who were content that he should enslave the continent, if he enabled them to enslave Great Britain. These princes, traitors to their own royal dignity and to the feelings of the

generous people whom they ruled, preferred the condition of the first slaves of Louis XIV. to the dignity of the first freemen of England; yet even under these princes, the feelings of the people of this kingdom were displayed on a most memorable occasion towards foreign sufferers and foreign oppressors. The revocation of the edict of Nantz, threw fifty thousand French Protestants on our shores. They were received, as I trust the victims of tyranny ever will be in this land, which seems chosen by Providence to be the home of the exile, the refuge of the oppressed. They were welcomed by a people high-spirited as well as humane, who did not insult them by clandestine charity: who did not give alms in secret lest their charity should be detected by the neighboring tyrants! No! They were publicly and nationally welcomed and relieved. They were bid to raise their voice against their oppressor, and to proclaim their wrongs to all mankind. They did so. They were joined in the cry of just indignation by every Englishman worthy of the name. It was a fruitful indignation, which soon produced the successful resistance of Europe to the common enemy. Even then, when Jeffries disgraced the bench which his lordship now adorns, no refugee was deterred by prosecution for libel from giving vent to his feelings, from arraigning the oppressor in the face of all Europe.

During this ignominious period of our history, a war arose on the continent, which cannot but present itself to the mind on such an occasion as this; the only war that was ever made on the avowed ground of attacking a free press. I speak of the invasion of Holland by Louis XIV. The liberties which the Dutch gazettes had taken in discussing his conduct, were the sole cause of this very extraordinary and memorable war, which was of short duration, unprecedented in its avowed principle, and most glorious in its event for the liberties of mankind. That republic, at all times so interesting to Englishmen—in the worst times of both countries our brave enemies; in their best times, our most faithful and valuable friends, was then charged with the defence of a free press against the oppressor of Europe, as a sacred trust for the benefit of all generations. They felt the sacredness of the deposit, they felt the dignity of the station in which they were placed, and though deserted by the un-English government of England, they asserted their own ancient character, and drove out the great armies and great captains of the oppressor with defeat and disgrace. Such was the result of the only war hitherto avowedly undertaken to oppress a free country because she allowed the free and public exercise of reason. And may the God of justice and liberty grant that such may ever be the result of wars made by tyrants

against the rights of mankind, especially against that right which is the guardian of every other.

This war, gentlemen, had the effect of raising up from obscurity the great prince of Orange, afterwards King William III., the deliverer of Holland, the deliverer of England, the deliverer of Europe; the only hero who was distinguished by such a happy union of fortune and virtue that the objects of his ambition were always the same with the interests of humanity; perhaps the only man who devoted the whole of his life exclusively to the service of mankind. This most illustrious benefactor of Europe, this "hero without vanity or passion," as he has been justly and beautifully called by a venerable prelate, who never made a step towards greatness without securing or advancing liberty, who had been made Stadtholder of Holland for the salvation of his own country, was soon after made King of England for the deliverance of ours. When the people of Great Britain had once more a government worthy of them, they returned to the feelings and principles of their ancestors; and resumed their former station and their former duties as protectors of the independence of nations. The people of England, delivered from a government which disgraced, oppressed, and betrayed them, fought under William as their forefathers had fought under Elizabeth, and after an almost uninterrupted struggle of more than twenty years, in which they were often abandoned by fortune, but never by their own constancy and magnanimity, they at length once more defeated those projects of guilty ambition, boundless aggrandizement, and universal domination, which had a second time threatened to overwhelm the whole civilized world. They rescued Europe from being swallowed up in the gulf of extensive empire, which the experience of all times points out as the grave of civilization, where men are driven by violent conquest and military oppression into lethargy and slavishness of heart, where, after their arts have perished with the mental vigor from which they spring, they are plunged by the combined power of effeminacy and ferocity into irreclaimable and hopeless barbarism. Our ancestors established the safety of their own country by providing for that of others, and rebuilt the European system upon such firm foundations, that nothing less than the tempest of the French revolution could have shaken it.

This arduous struggle was suspended for a short time by the peace of Ryswick. The interval between that treaty and the war of the succession enables us to judge how our ancestors acted in a very peculiar situation, which requires maxims of policy very different from those which usually govern states. The treaty which they had concluded was in truth and sub-

stance only a truce. The ambition and the power of the enemy were such as to render real peace impossible. And it was perfectly obvious that the disputed succession of the Spanish monarch would soon render it no longer practicable to preserve even the appearance of amity. It was desirable, however, not to provoke the enemy by unseasonable hostility; but it was still more desirable, it was absolutely necessary, to keep up the national jealousy and indignation against him who was soon to be their open enemy. It might naturally have been apprehended that the press might have driven into premature war a prince who not long before had been violently exasperated by the press of another free country. I have looked over the political publications of that time with some care, and I can venture to say, that at no period were the system and projects of Louis XIV. animadverted on with more freedom and boldness than during that interval. Our ancestors and the heroic prince who governed them, did not deem it wise policy to disarm the national mind for the sake of prolonging a truce. They were both too proud and too wise to pay so great a price for so small a benefit.

In the course of the eighteenth century, a great change took place in the state of political discussion in this country. I speak of the multiplication of newspapers. I know that newspapers are not very popular in this place, which is, indeed, not very surprising; because they are known here only by their faults. Their publishers come here only to receive the chastisement due to their offences. With all their faults, I own, I cannot help feeling some respect for whatever is a proof of the increased curiosity and increased knowledge of mankind; and I cannot help thinking, that if somewhat more indulgence and consideration were shown for the difficulties of their situation, it might prove one of the best correctives of their faults, by teaching them that self-respect, which is the best security for liberal conduct towards others. But however that may be, it is very certain that the multiplication of these channels of popular information has produced a great change in the state of our domestic and foreign politics. At home, it has, in truth, produced a gradual revolution in our government. By increasing the number of those who exercise some sort of judgment on public affairs, it has created a substantial democracy, infinitely more important than those democratical forms which have been the subject of so much contest. So that I may venture to say, England has not only in its forms the most democratical government that ever existed in a great country, but in substance, has the most democratical government that ever existed in any country; if the most *substantial* democracy be

that state in which the greatest number of men feel an interest, and express an opinion upon political questions, and in which the greatest number of judgments and wills concur in influencing public measures.

The same circumstances gave great additional importance to our discussion of continental politics. That discussion was, no longer, as in the preceding century, confined to a few pamphlets, written and read only by men of education and rank, which reached the multitude very slowly and rarely. In newspapers an almost daily appeal was made, directly, or indirectly, to the judgment and passions of almost every individual in the kingdom, upon the measures and principles not only of his own country, but of every state in Europe. Under such circumstances, the tone of these publications in speaking of foreign governments became a matter of importance. You will excuse me, therefore, if, before I conclude, I remind you of the general nature of their language, on one or two very remarkable occasions, and of the boldness with which they arraigned the crimes of powerful sovereigns, without any check from the laws and magistrates of their own country. This toleration, or rather this protection, was too long and uniform to be accidental. I am, indeed, very much mistaken, if it be not founded upon a policy which this country cannot abandon without sacrificing her liberty and endangering her national existence.

The first remarkable instance which I shall choose to state of the unpunished and protected boldness of the English press, of the freedom with which they animadverted on the policy of powerful sovereigns, is the partition of Poland in 1772: an act not perhaps so horrible in its means, nor so deplorable in its immediate effects, as some other atrocious invasions of national independence which have followed it; but the most abominable in its general tendency and ultimate consequences of any political crime recorded in history, because it was the first practical breach in the system of Europe, the first example of atrocious robbery perpetrated on unoffending countries, which has been since so liberally followed, and which has broken down all the barriers of habit and principle which guarded defenceless states. The perpetrators of this atrocious crime were the most powerful sovereigns of the continent, whose hostility it certainly was not the interest of Great Britain wantonly to incur. They were the most illustrious princes of their age, and some of them were doubtless entitled to the highest praise for their domestic administration, as well as for the brilliant qualities which distinguished their characters. But none of these circumstances, no dread of their resentment, no

admiration of their talents, no consideration for their rank, silenced the animadversion of the English press. Some of you remember, all of you know, that a loud and unanimous cry of reprobation and execration broke out against them from every part of this kingdom. It was perfectly uninfluenced by any considerations of our own mere national interest, which might perhaps be supposed to be rather favorably affected by that partition. It was not, as in some other countries, the indignation of rival robbers, who were excluded from their share of the prey. It was the moral anger of disinterested spectators against atrocious crimes, the gravest and the most dignified moral principle which the God of justice has implanted in the human heart, that of which the dread is the only restraint on the actions of powerful criminals, and of which the promulgation is the only punishment that can be inflicted on them. It is a restraint which ought not to be weakened. It is a punishment which no good man can desire to mitigate.

That great crime was spoken of as it deserved in England. Robbery was not described by any courtly circumlocutions. Rapine was not called policy; nor was the oppression of an innocent people termed a *mediation* in their domestic differences. No prosecutions, no criminal informations, followed the liberty and the boldness of the language then employed. No complaints even appear to have been made from abroad, much less any insolent menaces against the free constitution which protected the English press. The people of England were too long known throughout Europe, for the proudest potentate to expect to silence our press by such means.

I pass over the second partition of Poland in 1792. You all remember what passed on that occasion, the universal abhorrence expressed by every man and every writer of every party, the succors that were publicly preparing by large bodies of individuals of all parties for the oppressed Poles. I hasten to the final dismemberment of that unhappy kingdom, which seems to me the most striking example in our history of the habitual, principled, and deeply rooted forbearance of those who administer the law towards political writers.

We were engaged in the most extensive, bloody, and dangerous war that this country ever knew, and the parties to the dismemberment of Poland were our allies, and our only powerful and effective allies. We had every motive of policy to court their friendship. Every reason of state seemed to require that we should not permit them to be abused and vilified by English writers. What was the fact? Did any Englishman consider himself at liberty, on account of temporary interests, however urgent, to silence those feelings of humanity and justice which

guard the certain and permanent interests of all countries? You all remember that every voice, and every pen, and every press in England were unceasingly employed to brand that abominable robbery. You remember that this was not confined to private writers, but that the same abhorrence was expressed by every member of both houses of parliament who was not under the restraints of ministerial reserve. No minister dared even to blame the language of honest indignation which might be very inconvenient to his most important political projects; and I hope I may venture to say, that no English assembly would have endured such a sacrifice of eternal justice to any miserable interest of an hour. Did the law officers of the crown venture to come into a court of justice to complain of the boldest of the publications of that time? They did not. I do not say that they felt any disposition to do so. I believe that they could not. But I do say that if they had; if they had spoken of the necessity of confining our political writers to cold narrative and unfeeling argument; if they had informed the jury, that they did not prosecute history, but invective; that if private writers be at all to blame great princes, it must be with moderation and decorum, the sound heads and honest hearts of an English jury would have confounded such sophistry, and declared by their verdict, that moderation of language is a relative term, which varies with the subject to which it is applied; that atrocious crimes are not to be related as calmly and coolly as indifferent or trifling events; that if there be a decorum due to exalted rank and authority, there is also a much more sacred decorum due to virtue and to human nature, which would be outraged and trampled under foot, by speaking of guilt in a lukewarm language, falsely called moderate.

Soon after, gentlemen, there followed an act, in comparison with which all the deeds of rapine and blood perpetrated in the world are innocence itself—the invasion and destruction of Switzerland, that unparalleled scene of guilt and enormity; that unprovoked aggression against an innocent country, which had been the sanctuary of peace and liberty for three centuries; respected as a sort of sacred territory by the fiercest ambition; raised, like its own mountains, beyond the region of the storms which raged around on every side; the only warlike people that never sent forth armies to disturb their neighbors; the only government that ever accumulated treasures without imposing taxes, an innocent treasure, unstained by the tears of the poor, the inviolate patrimony of the commonwealth, which attested the virtue of a long series of magistrates, but which at length caught the eye of the spoiler, and became the fatal occasion of

their ruin! Gentlemen, the destruction of such a country, "its cause so innocent, and its fortune so lamentable!" made a deep impression on the people of England. I will ask my learned friend, if we had then been at peace with the French republic, whether we must have been silent spectators of the foulest crimes that ever blotted the name of humanity! whether we must like cowards and slaves have repressed the compassion and indignation with which that horrible scene of tyranny had filled our hearts? Let me suppose, gentlemen, that Aloys Reding, who has displayed in our times the simplicity, magnanimity, and piety of ancient heroes, had, after his glorious struggle, honored this kingdom by choosing it as his refuge; that after performing prodigies of valor at the head of his handful of heroic peasants on the field of Margarten, where his ancestor, the *Landamman Reding*, had, five hundred years before, defeated the first oppressors of Switzerland, he had selected this country to be his residence, as the chosen abode of liberty, as the ancient and inviolable asylum of the oppressed; would my learned friend have had the boldness to have said to this hero, "that he must hide his tears" (the tears shed by a hero over the ruins of his country!) "lest they might provoke the resentment of *Reubel* or *Rapinat!* that he must smother the sorrow and the anger with which his heart was loaded; that he must breathe his murmurs low, lest they might be overheard by the oppressor!" Would this have been the language of my learned friend? I know that it would not. I know, that by such a supposition I have done wrong to his honorable feelings, to his honest English heart. I am sure that he knows as well as I do, that a nation which should *thus* receive the oppressed of other countries, would be preparing its own neck for the yoke. He knows the slavery which such a nation would deserve, and must speedily incur. He knows that sympathy with the unmerited sufferings of others, and disinterested anger against their oppressors, are, if I may so speak, the masters which are appointed by Providence to teach us fortitude in the defence of our own rights; that selfishness is a dastardly principle, which betrays its charge and flies from its post; and that those only can defend themselves with valor, who are animated by the moral approbation with which they can survey their sentiments towards others, who are ennobled in their own eyes by a consciousness that they are fighting for justice as well as interest; a consciousness which none can feel, but those who have felt for the wrongs of their brethren. These are the sentiments which my learned friend would have felt. He would have told the hero: "Your confidence is not deceived: this is

still that England, of which the history may, perhaps, have contributed to fill your heart with the heroism of liberty. Every other country of Europe is crouching under the bloody tyrants who destroyed your country. We are unchanged; we are still the same people which received with open arms the victims of the tyranny of Philip II. and Louis XIV. We shall not exercise a cowardly and clandestine humanity! Here we are not so dastardly as to rob you of your greatest consolation. Here, protected by a free, brave, and high-minded people, you may give vent to your indignation; you may proclaim the crimes of your tyrants, you may devote them to the execration of mankind; there is still one spot upon earth in which they are abhorred, without being dreaded!"

I am aware, gentlemen, that I have already abused your indulgence; but I must entreat you to bear with me for a short time longer, to allow me to suppose a case which might have occurred, in which you will see the horrible consequences of enforcing rigorously principles of law, which I cannot counteract, against political writers. We might have been at peace with France during the whole of that terrible period which elapsed between August 1792 and 1794, which has been usually called the reign of *Robespierre!* The only series of crimes, perhaps, in history, which, in spite of the common disposition to exaggerate extraordinary facts, has been beyond measure underrated in public opinion. I say this, gentlemen, after an investigation, which I think entitles me to affirm it with confidence. Men's minds were oppressed by atrocity and the multitude of crimes; their humanity and their indolence took refuge in scepticism from such an overwhelming mass of guilt; and the consequence was, that all these unparalleled enormities, though proved not only with the fullest historical, but with the strictest judicial evidence, were at the time only half believed and are now scarcely half remembered. When these atrocities were daily perpetrating, of which the greatest part are as little known to the public in general as the campaigns of Genghis Khan, but are still protected from the scrutiny of men by the immensity of those voluminous records of guilt in which they are related, and under the mass of which they will be buried, till some historian be found with patience and courage enough to drag them forth into light, for the shame indeed, but for the instruction of mankind. When these crimes were perpetrating, which had the peculiar malignity, from the pretexts with which they were covered, of making the noblest objects of human pursuit seem odious and detestable; which have almost made the names of liberty, reformation, and humanity, synonymous

with anarchy, robbery, and murder; which thus threatened not only to extinguish every principle of improvement, to arrest the progress of civilized society, and to disinherit future generations of that rich succession which they were entitled to expect from the knowledge and wisdom of the present, but to destroy the civilization of Europe, which never gave such a proof of its vigor and robustness, as in being able to resist their destructive power; when all these horrors were acting in the greatest empire of the continent, I will ask my learned friend, if we had then been at peace with France, how English writers were to relate them so as to escape the charge of libelling a friendly government?

When *Robespierre*, in the debates in the national convention on the mode of murdering their blameless sovereign, objected to the formal and tedious mode of murder called a trial, and proposed to put him immediately to death, "on the principles of insurrection," because to doubt the guilt of the king would be to doubt of the innocence of the convention; and if the king were not a traitor, the convention must be rebels; would my learned friend have had an English writer state all this with "*decorum and moderation?*" Would he have had an English writer state, that though this reasoning was not perfectly agreeable to our national laws, or perhaps to our national prejudices, yet it was not for him to make any observations on the judicial proceedings of foreign states?

When *Marat*, in the same convention, called for two hundred and seventy thousand heads, must our English writers have said, that the remedy did, indeed, seem to their weak judgment rather severe; but that it was not for them to judge the conduct of so illustrious an assembly as the national convention, or the suggestions of so enlightened a statesman as M. Marat?

When that convention resounded with applause at the news of several hundred aged priests being thrown into the Loire, and particularly at the exclamation of *Carrier*, who communicated the intelligence, "What a revolutionary torrent is the Loire!" when these suggestions and narrations of murder, which have hitherto been only hinted and whispered in the most secret cabals, in the darkest caverns of banditti, were triumphantly uttered, patiently endured, and even loudly applauded by an assembly of seven hundred men, acting in the sight of all Europe, would my learned friend have wished that there had been found in England a single writer so base as to deliberate upon the most safe, decorous, and polite manner of relating all these things to his countrymen?

When Carrier ordered five hundred children under fourteen.

years of age to be shot, the greater part of whom escaped the fire from their size, when the poor victims ran for protection to the soldiers and were bayoneted clinging round their knees! would my friend—but I cannot pursue the strain of interrogation. It is too much. It would be a violence which I cannot practise on my own feelings. It would be an outrage to my friend. It would be an insult to humanity. No! Better, ten thousand times better, would it be that every press in the world were burnt, that the very use of letters were abolished, that we were turned to the honest ignorance of the rudest times, than that the results of civilization should be made subservient to the purposes of barbarism, than that literature should be employed to teach a toleration for cruelty, to weaken moral hatred for guilt, to deprave and brutalize the human mind. I know that I speak my friend's feelings as well as my own, when I say, God forbid that the dread of any punishment should ever make an Englishman an accomplice in so corrupting his countrymen, a public teacher of depravity and barbarity!

Mortifying and horrible as the idea is, I must remind you, gentlemen, that even at that time, even under the reign of Robespierre, my learned friend, if he had then been Attorney General, might have been compelled by some most deplorable necessity, to have come into this court to ask your verdict against the libellers of Barrere and Collot d'Herbois. Mr. Peltier then employed his talents against the enemies of the human race, as he has uniformly and bravely done. I do not believe that any peace, any political considerations, any fear of punishment, would have silenced him. He has shown too much honor, and constancy, and intrepidity, to be shaken by such circumstances as these.

My learned friend might then have been compelled to have filed a criminal information against Mr. Peltier, for "wickedly and maliciously intending to vilify and degrade Maximilian Robespierre, president of the committee of public safety of the French Republic!" He might have been reduced to the sad necessity of appearing before you, to bely his own better feelings; to prosecute Mr. Peltier for publishing those sentiments which my friend himself had a thousand times felt, and a thousand times expressed. He might have been obliged even to call for punishment upon Mr. Peltier for language which he and all mankind would for ever despise Mr. Peltier if he were not to employ. Then indeed, gentlemen, we should have seen the last humiliation fall on England; the tribunals, the spotless and venerable tribunals of this free country, reduced to be the ministers of the vengeance of Robespierre! What could have

rescued us from this last disgrace? The honesty and courage of a jury. They would have delivered the judges of this country from the dire necessity of inflicting punishment on a brave and virtuous man, because he spoke truth of a monster They would have despised the threats of a foreign tyrant, as their ancestors braved the power of oppression at home.

In the court where we are now met, Cromwell twice sent a satirist on his tyranny to be convicted and punished as a libeller; and in this court, almost in sight of the scaffold streaming with the blood of his sovereign, within hearing of the clash of his bayonets which drove out parliament with contumely, two successive juries rescued the intrepid satirist from his fangs, and sent out with defeat and disgrace the usurper's attorney general from what he had the insolence to call *his* court. Even then, gentlèmen, when all law and liberty were trampled under the feet of a military banditti; when those great crimes were perpetrated on a high place and with a high hand against those who were the objects of public veneration, which, more than anything else, break their spirits and confound their moral sentiments, obliterate the distinctions between right and wrong in their understanding, and teach the multitude to feel no longer any reverence for that justice which they thus see triumphantly dragged at the chariot-wheels of a tyrant; even then, when this unhappy country, triumphant indeed abroad but enslaved at home, had no prospect but that of a long succession of tyrants wading through slaughter to a throne—even then, I say, when all seemed lost, the unconquerable spirit of English liberty survived in the hearts of English jurors. That spirit is, I trust in God, not extinct; and if any modern tyrant were, in the drunkenness of his insolence, to hope to overawe an English jury, I trust and I believe that they would tell him: "Our ancestors braved the bayonets of Cromwell; we bid defiance to yours. *Contempsi Catalinæ gladios—non pertimescam tuos!*"

What could be such a tyrant's means of overawing a jury? As long as their country exists, they are girt round with impenetrable armor. Till the destruction of their country no danger can fall upon them for the performance of their duty, and I do trust that there is no Englishman so unworthy of life as to desire to outlive England. But if any of us are condemned to the cruel punishment of surviving our country—if, in the inscrutable counsels of Providence, this favored seat of justice and liberty, this noblest work of human wisdom and virtue, be destined to destruction, which I shall not be charged with national prejudice for saying would be the most dangerous wound ever inflicted on civilization; at least let us carry with

us into our sad exile the consolation that we ourselves have not violated the rights of hospitality to exiles—that we have not torn from the altar the suppliant who claimed protection as the voluntary victim of loyalty and conscience!

Gentlemen, I now leave this unfortunate gentleman in your hands. His character and his situation might interest your humanity; but, on his behalf, I only ask justice from you. I only ask a favorable construction of what cannot be said to be more than ambiguous language, and this you will soon be told from the highest authority is a part of justice.

THE END.

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